10-3-90
Vol. 55 No. 192

federal register

Wednesday
October 3, 1990

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

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SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

10-3-90
Vol. 55 No. 192
Pages 40375-40644

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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Contents

Federal Register
Vol. 55, No. 192
Wednesday, October 3, 1990

Separate Parts In This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 55, No. 192
Wednesday, October 3, 1990

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 90-193]

Oriental Fruit Fly; Removal of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are removing the Oriental fruit fly regulations that designated a portion of Los Angeles County in California as a quarantined area and imposed restrictions on the interstate movement of regulated articles from that area. The regulations were established to prevent the spread of the Oriental fruit fly into noninfested areas of the United States. We have determined that the Oriental fruit fly has been eradicated from Los Angeles County, California, and that the regulations are no longer necessary. This rule relieves restrictions on the interstate movement of regulated articles from the previously quarantined area in Los Angeles County, California.

DATES: Interim rule effective September 28, 1990. Consideration will be given only to comments received on or before December 3, 1990.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90-193. Comments received may be inspected at USDA, Room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Senior Operations Officer, Domestic and Emergency Operations, Plant Protection and Quarantine, APHIS, USDA, Room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8247.

SUPPLEMENTARY INFORMATION:

Background

We established the Oriental fruit fly regulations (7 CFR 301.93 *et seq.*; referred to below as the regulations) and quarantined an area of Los Angeles County, California—in the West Covina area—in a document effective on August 15, 1989, and published in the Federal Register on August 21, 1989 (54 FR 34477-34483, Docket No. 89-144). The regulations imposed restrictions on the interstate movement of regulated articles from quarantined areas to prevent the spread of the Oriental fruit fly into noninfested areas of the United States. The regulations also designated soil, and a large number of fruits, nuts, vegetables, and berries, as regulated articles.

We have published a series of interim rules amending these regulations by adding or removing certain portions of Los Angeles and Orange Counties, California, from the list of quarantined areas. Amendments affecting California were made effective on September 19, October 16, and October 20, 1989; and on August 3 and September 6, 1990 (54 FR 39161-39162, Docket No. 89-170; 54 FR 43037-43038, Docket Number 89-186; 54 FR 43575-43576, Docket Number 89-187; 55 FR 32240-32241, Docket Number 90-149; 55 FR 32238-32240, Docket Number 90-157; and 55 FR 37311-37312, Docket Number 90-176). Immediately prior to the effective date of this document, only one area—a portion of Los Angeles County, California, that includes Lynwood, South Gate, Downey, Paramont, Compton, Willowbrook, and Watts—was listed as a quarantined area.

Based on insect trapping surveys conducted by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, we have determined that the Oriental fruit fly has been eradicated from the previously quarantined portion of Los Angeles County, California. The last finding of Oriental fruit fly was made in this area on July 12, 1990.

Since then, no evidence of Oriental fruit fly infestations has been found in this area. Based on Departmental experience, we have determined that sufficient time has passed without finding additional flies or other evidence of infestation to conclude that Oriental fruit fly infestations no longer exist in Los Angeles County, California. We are therefore removing the Oriental fruit fly regulations.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. A portion of Los Angeles County, California—including Lynwood, South Gate, Downey, Paramont, Compton, Willowbrook, and Watts—was quarantined due to the possibility that the Oriental fruit fly could be spread from this area to noninfested areas of the United States. Since this situation no longer exists, the Oriental fruit fly regulations now impose an unnecessary regulatory burden on the public. We are therefore taking immediate action to remove these regulations.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, and because this rule relieves a regulatory restriction, there is good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this interim rule in the Federal Register. After the comment period closes, we will publish another document in the Federal Register, including discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100

million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive order 12291.

This regulation affects the interstate movement of previously regulated articles from a portion of Los Angeles County, California. The small entities that may be affected by this regulation are approximately 120 fruit/produce markets, 20 nurseries, and 146 retail fruit/produce vendors. These entities comprise less than 1 percent of the total number of similar enterprises operating in the State of California.

It appears that most of these small entities sold previously regulated articles primarily for local intrastate, not interstate markets. The sale of these articles will therefore remain unaffected by the regulatory provisions we are removing. Also, many of these entities sold other items in addition to the previously regulated articles so that the effect, if any, of this regulation on these entities will be minimal.

The effect of this regulation on these entities that did move previously regulated articles interstate was minimized by the availability of various treatments specified in the Plant Protection and Quarantine Treatment Manual, incorporated by reference in the regulations. The specified treatments, in most cases, allowed these small entities to move previously regulated articles interstate with very little additional cost.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Original fruit fly, Plant disease, Plant pests, Plants (Agriculture), Quarantine, Transportation.

Accordingly, 7 CFR part 301 is amended to read as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

§§ 301.93 through 301.93–10 [Removed and Reserved]

2. "Subpart—Oriental Fruit Fly" (7 CFR 301.93 through 301.93–10) is removed and reserved.

Done in Washington, DC, this 28th day of September 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90–23388 Filed 10–2–90; 8:45 am]

BILLING CODE 3410–34–M

Farmers Home Administration

7 CFR Part 1944

Section 502 Rural Housing Loan Policies, Procedures and Authorizations

CFR Correction

In title 7 of the Code of Federal Regulations, parts 1940 to 1949 revised as of January 1, 1989, and January 1, 1990, § 1944.16 (i) was incorrectly removed. The missing text to be reinstated on page 334 of the January 1, 1989, revision and on page 332 of the January 1, 1990, revision should read as follows:

§ 1944.16 Dwelling requirements.

* * * * *

(i) *Design features/amenities in existing dwellings.* Existing dwellings with design features which add significantly to the value of the dwelling (such as those listed in paragraph (e) of this section) will not be financed unless the cost of the dwelling is no more than the cost of a new dwelling, and the dwelling with such a feature is determined by the County Supervisor to be modest. Amenities such as those outlined in paragraph (f) of this section may be included in existing dwellings unless the County Supervisor determines that a combination of those amenities causes the dwelling to be above modest.

BILLING CODE 1505–01–D

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 104, 114, and 116

[Notice 1990–16]

Debts Owed by Candidates and Political Committees

AGENCY: Federal Election Commission.

ACTION: Final rule: Announcement of effective date.

SUMMARY: On June 27, 1990 (55 FR 26378), the Commission published the text of new rules governing the extension of credit and settlement of debts owed by candidates and political committees. 11 CFR part 116. New forms to implement the provisions of these regulations were transmitted to Congress on June 28, 1990. The Commission announces that these rules and the new forms are effective as of October 3, 1990.

EFFECTIVE DATE: October 3, 1990.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E. Street, NW., Washington, DC 20463, (202) 376–5690 or toll free (800) 424–9530.

SUPPLEMENTARY INFORMATION: Section 438(d) of title 2, United States Code requires that any rule or regulation prescribed by the Commission to implement title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate thirty legislative days prior to final promulgation. The new rules at 11 CFR part 116 and the conforming amendments to 11 CFR 100.7(a)(4), 104.3(d) and 104.11(b) were transmitted to Congress on June 22, 1990. Thirty legislative days expired in the House of Representatives on September 14, 1990 and in the Senate on September 17, 1990.

Section 438(d) of title 2, United States Code also provides that any forms prescribed by the Commission to carry out the provisions of title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate prior to final promulgation. If neither House disapproves the forms within ten legislative days of their transmittal, the Commission may prescribe the form in question. New FEC Form 8, entitled "Debt Settlement Plan" was transmitted

to Congress on June 28, 1990. Ten legislative days expired in the Senate and the House of Representatives on July 23, 1990.

Announcement of Effective Date: 11 CFR 100.7(a)(4), 104.3(d), 104.11(b), 114.10 and part 116, and new FEC Form 8 are effective as of October 3, 1990. Accordingly, the new debt settlement rules will apply to all debt settlement requests received by the Commission on or after the effective date. Debt settlement requests received prior to the effective date will be processed under the previous rules.

Dated: September 27, 1990.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 90-23353 Filed 10-2-90; 8:45 am]

BILLING CODE 6715-01-M

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11 CFR Parts 102, 104 and 106

[Notice 1990-13]

Methods of Allocation Between Federal and Non-Federal Accounts; Payments; Reporting

AGENCY: Federal Election Commission.

ACTION: Final rule: Announcement of effective date.

SUMMARY: On June 26, 1990 (55 FR 26058), the Commission published the text of revised regulations at 11 CFR parts 102, 104 and 106 providing for allocation of expenses for activities that jointly benefit both federal and non-federal candidates and elections. These regulations implement the contribution and expenditure limitations and prohibitions established by 2 U.S.C. 441a and 441b, provisions of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. 431 *et seq.* The Commission announces that these rules are effective as of January 1, 1991. The Commission's new forms implementing the reporting provisions of these regulations will also take effect on January 1, 1991.

EFFECTIVE DATE: January 1, 1991.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463, (202) 376-5690 or toll free (800) 424-9530.

SUPPLEMENTARY INFORMATION: Section 438(d) of title 2, United States Code, requires that any rule or regulation prescribed by the Commission to implement title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate thirty legislative days before final promulgation. The revisions to 11 CFR parts 102, 104 and 106 were transmitted to Congress on June 18, 1990. It should be noted that this transmittal date was incorrectly reported as June 15, 1990 in an earlier notice (55 FR 26058). Thirty legislative days expired in both the House and the Senate on September 11, 1990. Thus, the Commission may now prescribe these new regulations.

Section 438(d) also requires that any form prescribed by the Commission be transmitted to the Speaker of the House of Representatives and the President of the Senate ten legislative days before final promulgation. A set of new reporting forms was transmitted to Congress on June 22, 1990. These forms are intended to implement the reporting provisions of the new allocation regulations at 11 CFR parts 104 and 106. Ten legislative days expired in both the House and the Senate on July 17, 1990. Thus, the Commission may now prescribe these new reporting forms.

The Commission is announcing today that its revised regulations at 11 CFR parts 102, 104 and 106 will take effect on January 1, 1991. These regulations govern the allocation of expenses for activities that jointly benefit both federal and non-federal candidates and elections. They apply to party committees, nonconnected committees, and (under certain circumstances) separate segregated funds that make disbursements on behalf of both federal and non-federal candidates and elections. The regulations set forth procedures for how such costs are to be allocated between a committee's federal and non-federal accounts, and for how allocated expenses are to be paid. In addition, the regulations clarify how committees are to allocate expenses attributable to more than one clearly identified candidate. The regulations also specify additional information that is to be reported to the Commission by each type of committee covered by the rules. The new reporting forms being prescribed today implement these new disclosure requirements.

The effective date of these regulations is being delayed to give affected committees sufficient time to develop the data and reporting capabilities necessary to comply with the new allocation requirements. Reports filed for reporting periods ending prior to January 1, 1991 need not include the additional information or forms required by the new regulations, including 1990 year-end reports that are due on January 31, 1991. However, reports for periods beginning on or subsequent to January 1, 1991 must comply with the new allocation requirements and, when appropriate, must include the new reporting forms.

Announcement of Effective Date: 11 CFR parts 102, 104 and 106, as published at 55 FR 26058, are effective as of January 1, 1991. New forms implementing the reporting provisions of these regulations are also effective as of January 1, 1991

Dated: September 27, 1990.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 90-23351 Filed 10-2-90; 8:45 am]

BILLING CODE 6715-01-M

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11 CFR Parts 106, 9003, 9007, 9033, 9035 and 9038

[Notice 1990-15]

Presidential Primary and General Election Candidates; Technical Requirements for Computerized Magnetic Media

AGENCY: Federal Election Commission.

ACTION: Final rule: Announcement of effective date.

SUMMARY: On June 27, 1990 (55 FR 26392), the Commission published the text of new and revised rules governing the production of computerized information maintained or used by publicly funded Presidential primary and general election campaign committees. 11 CFR 106.2(c), 9003.3, 9003.6, 9007.1(b), 9033.12, 9035.1(c) and 9038.1(b). The Commission also prepared new technical standards designed to ensure the compatibility of magnetic media provided for Commission use during its mandatory audits of these committees. *See* Computerized Magnetic Media Requirements for title 26 Candidates/Committees Receiving Federal Funding (CMMR), available from the Commission's Public Records Office or the Audit Division. The Commission announces that these rules and the new technical standards are effective as of October 3, 1990.

EFFECTIVE DATE: October 3, 1990.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463, (202) 376-5690 or toll free (800) 424-9530.

SUPPLEMENTARY INFORMATION: Section 438(d) of title 2, United States Code, and 26 U.S.C. 9009(c) and 9039(c), require that any rule or regulation prescribed by the Commission to implement titles 2 and 26 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of

the Senate thirty legislative days prior to final promulgation. The new rules at 11 CFR 9003.6 and 9033.12 and the revisions to 11 CFR 106.2(c), 9003.3, 9007.1(b), 9035.1(c) and 9038.1(b) were transmitted to Congress on June 22, 1990. Thirty legislative days expired in the Senate and the House of Representatives on September 18, 1990.

Announcement of Effective Date

11 CFR 106.2(c), 9003.3 (a), (b) and (c), 9003.6, 9007.1(b), 9033.12, 9035.1(c) and 9038.1(b), as published at 55 FR 26392 are effective as of October 3, 1990. The technical standards set forth in the CMMR are also effective as of October 3, 1990.

Dated: September 27, 1990.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 90-23350 Filed 10-2-90; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket Number 90-ACE-04]

Alteration of Control Zone and Transition Area; Dodge City, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action corrects an error in the transition area description for Dodge City, Kansas. In the transition area description, Dodge City Regional Airport was incorrectly referred to as Dodge City Municipal Airport.

EFFECTIVE DATE: 0901 UTC, December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, System Management Branch, Air Traffic Division, ACE-530, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 90-18800 published on August 10, 1990, (55 FR 32613) altered the control zone and transition area descriptions for Dodge City, Kansas. In the transition area description Dodge City Regional Airport was incorrectly listed as Dodge City Municipal Airport. This action corrects that error.

Adoption of the Correction

§ 71.181 [Corrected]

Accordingly, pursuant to the authority delegated to me, Federal Register Document 90-18800 beginning on page 32613, published on August 10, 1990, is corrected by removing the words "Dodge City Municipal Airport" and substituting the words "Dodge City Regional Airport" in the second column, in § 71.181, in the third line of the transition area description.

Authority: 49 U.S.C. 1348(a), 1510; Executive Order 10854; 49 U.S.C. 106(g), (Revised Pub. L. 97-449, January 12, 1983; 14 CFR 11.69). Issued in Kansas City, Missouri, on September 10, 1990.

Clarence E. Newbern,

Manager, Air Traffic Division.

[FR Doc. 90-23218 Filed 10-2-90; 8:45 am]

BILLING CODE 4910-13-M

INTERNATIONAL TRADE COMMISSION

19 CFR Part 201

Privacy Act; Information and Requests

AGENCY: International Trade Commission.

ACTION: Final rule.

SUMMARY: This notice sets forth final rules that the U.S. International Trade Commission has adopted relating to two new systems of records entitled "Office of Inspector General Investigative Files (General)" and "Office of Inspector General Investigative Files (Criminal)". These rules, 19 CFR 201.32 (d) and (e), exempt the new systems from certain sections of the Privacy Act of 1974 (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a (j) and (k).

EFFECTIVE DATE: October 3, 1990.

FOR FURTHER INFORMATION CONTACT: Jane E. Altenhofen, Inspector General, 202-252-2210. Hearing impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202-252-1810.

SUPPLEMENTARY INFORMATION: Notice of a new system of records entitled "Office of Inspector General Investigative Files" was published in the **Federal Register** on May 9, 1990 (55 FR 19371). This system was to contain records and information compiled during the course of investigations into possible violations of criminal and other laws conducted by the Inspector General. Accompanying this notice was a proposed rule to exempt this system of records from certain sections of the Privacy Act of 1974 (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a (j) and (k). The proposed rule was published in the **Federal Register** on May 9, 1990 (55 FR 19276).

When the Office of Inspector General (OIG) was established in the Commission by the Inspector General Act Amendments of 1988, Public Law 100-504, it was given the responsibility of detecting and preventing fraud and abuse in the programs and operations of the Commission. An integral part of this responsibility involves conducting investigations into possible violations of criminal as well as civil laws. In order to allow the OIG to carry out this function effectively, the Commission proposed the establishment of a single system of investigative records, which was to be exempt from certain provisions of the Privacy Act of 1974, pursuant to sections (j) (2) and (k) (2) of that Act.

The exemptions are necessary in order to protect the integrity of the system of records. Access by subject individuals, among others, to the Investigative Files, including the names of persons or agencies to whom the information has been transmitted, would substantially compromise the effectiveness of OIG investigations. Knowledge of such investigations could enable suspects to take action to prevent detection of unlawful activities, conceal or destroy evidence, or escape prosecution. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses, and their families, and could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified or retained would significantly impede the effectiveness of OIG investigatory activities and, in addition, could preclude the apprehensive and successful prosecution or discipline of persons engaged in fraud or other illegal activity.

In response to the proposed rule providing exemptions for the original system, the Commission received a comment, from Congressman Robert Wise, Chairman of the Government Information, Justice, and Agriculture Subcommittee of the Committee on Government Operations. Congressman Wise objected to the use of the (j)(2) exemption for all of the IG's investigatory records. He suggested, however, that "if an IG office establishes a clearly identifiable subunit that performs as its principal function criminal functions, the separate records of that subunit may qualify for the (j)(2) exemption."

In response to Congressman Wise's comments, the OIG has established two systems of records. The primary system, containing investigatory materials compiled for law enforcement purposes, will be entitled Office of Inspector General Investigative Files (General). The second system, entitled Office of Inspector General Investigative Files (Criminal), will be maintained and used by the OIG's newly established Criminal Investigations Subunit.

The primary system of records will contain material compiled for law enforcement purposes during the course of non-criminal investigations. These files, the Office of Inspector General Investigative Files (General), will be maintained by the OIG, and will be exempt from certain requirements of the Privacy Act under section (k)(2).

The secondary system will contain information compiled during criminal investigations and will be used and maintained by the OIG's newly established Criminal Investigations Subunit. The sole function of the new subunit will be to conduct investigations into possible criminal violations. Thus the principal function of this subunit would be an activity pertaining to the enforcement of criminal laws. This subunit will maintain the system of records entitled Office of Inspector General Investigative Files (Criminal), and this system will be exempt from certain requirements of the Privacy Act under section (j)(2).

The Commission has determined that this rule does not constitute a major rule under section 1(b) of Executive Order 12291 because it will not result in (1) an annual effect on the economy of at least $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (3) significant adverse effects on competition, employment, investment, productivity, or innovation. In addition, the Regulatory Flexibility Act, 5 U.S.C. 605(b), does not apply since this rule will not have significant impact on a substantial number of small entities. The Privacy Act concerns the rights of individuals, who do not constitute small entities under the Regulatory Flexibility Act.

List of subjects in 19 CFR part 201

Privacy, Reporting and Recordkeeping Requirements.

For the reasons set forth above, the U.S. International Trade Commission proposes to amend 19 CFR part 201, subpart D, as follows:

PART 201—RULES OF GENERAL APPLICATION

Subpart D—Safeguarding Individual Privacy Pursuant to 5 U.S.C. 552a.

1. The authority citation for subpart D continues to read as follows:

Authority: 5 U.S.C. 552a.

2. Part 201, Subpart D, is amended to add §§ 201.32(d) and 201.32(e) as follows:

§ 201.32 Specific exemptions.

* * * * *

(d) Pursuant to 5 U.S.C. 552a(k)(2), and in order to protect the effectiveness of Inspector General investigations by preventing individuals who may be the subject of an investigation from obtaining access to the records and thus obtaining the opportunity to conceal or destroy evidence or to intimidate witnesses, records contained in the system titled Office of Inspector General Investiative Files (General), insofar as they include investigatory material compiled for law enforcement purposes, shall be exempt from this subpart and from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of section 3 of the Privacy Act. *Provided, however,* that if any individual is denied any right, privilege, or benefit to which he is otherwise entitled to under Federal law due to the maintenance of this material, such material shall be provided to such individual except to the extent that the disclosure of such material would reveal the identify of a source who furnished information to government investigators under an express promise that the identity of the source would be held in confidence.

(e) Pursuant to 5 U.S.C. 552a(j)(2), and in order to protect the confidentiality and integrity of Inspector General investigations by preventing individuals who may be the subject of an investigation from obtaining access to the records and thus obtaining the opportunity to conceal or destroy evidence or to intimidate witnesses, records maintained in the Office of Inspector General Investigative Files (Criminal), insofar as they contain information pertaining to the enforcement of criminal laws, shall be exempt from this subpart and from the Privacy Act, *except that,* subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11) and (i) shall still apply to these records.

By the Commission.

Dated: September 26, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-23374 Filed 10-2-90; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 333 and 448

[Docket No. 76N-482A]

RIN 0905-AA06

Topical Antimicrobial Drug Products for Over-the-Counter Human Use; Amendment of Final Monograph for OTC First Aid Antibiotic Drug Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule that amends the final monograph for over-the-counter (OTC) first aid antibiotic drug products in 21 CFR part 333 that establishes conditions under which these drug products are generally recognized as safe and effective and not misbranded. This amendment revises the standards for bacitracin zinc-polymyxin B sulfate topical aerosol. FDA is concurrently amending the antibiotic regulations in 21 CFR part 448 to be consistent with the monograph for OTC first aid antibiotic drug products. This amendment of the final monograph is a part of the ongoing review of OTC drug products conducted by FDA.

DATES: Effective October 3, 1991; a written notice of participation and request for hearing on the amendment to 21 CFR 448.513e(a)(1) by November 2, 1990; data, information, and analyses to justify a hearing on the amendment to 21 CFR 448.513e(a)(1) by December 3, 1990.

ADDRESSES: Written comments or requests for a hearing on the amendment to § 448.513e(a)(1) to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 11, 1987 (52 FR 47312), FDA issued a final monograph for OTC first aid antibiotic

drug products (21 CFR part 333, subpart B). The monograph provided for bacitracin zinc-polymyxin B sulfate topical aerosol containing, in each 90-gram container, 10,000 units of bacitracin and 200,000 units of polymyxin B (§ 333.120(a)(7)) (21 CFR 333.120(a)(7)).

On June 3, 1988, FDA received a citizen petition (Docket No. 76N-0482/CP) requesting the amendment of § 333.120(a)(7) to delete the "90-gram" specification for the container size so that § 333.120(a)(7) would be consistent with the antibiotic regulation in § 448.513e(a)(1) which does not specify a container size for bacitracin zinc-polymyxin B sulfate topical aerosol.

On October 13, 1989, FDA received an amendment to the citizen petition (Docket No. 76N-0482/AMD1) requesting that § 333.120(a)(7) be revised to state the concentration of antibiotics contained in each gram, rather than designating the concentration of antibiotics contained in each "90-gram" container. The petitioner stated that vehicles and/or inert gases that could be used in the aerosol product vary in specific gravity and/or weight. The petitioner mentioned that if it wished to reformulate the product to change, add, or delete either the "suitable vehicle" or the "suitable inert gases," the final product would still provide the same number of units of antibiotics but the total container content might be at variance from the required 90 grams. Accordingly, the petitioner requested the § 333.120(a)(7) be revised to read "Bacitracin zinc-polymyxin B sulfate topical aerosol containing, in each gram, 120 units of bacitracin zinc and 2,350 units of polymyxin B * * *." The petitioner concluded that this approach would be consistent with other monograph listings in §§ 333.110 and 333.120.

In developing the final monograph for OTC first aid antibiotic drug products, the agency stated that the dosage forms included in the monograph reflected those dosage forms identified in Subpart F of the specific antibiotic regulations that applied to first aid antibiotics (52 FR 47312 at 47313). Although § 448.513e does not state a container size, as the petitioner noted, that particular section of the antibiotic regulations was based on an approved new drug application (NDA) for an aerosol product in a 90-gram container. When the final monograph for OTC first aid antibiotic drug products was prepared, it was necessary to state therein the size of the container to inform other manufacturers of the amount of antibiotics per total container size. After publication of the final monograph for OTC first aid antibiotic drug products, the agency was notified that the underlying NDA for the aerosol product had been amended to provide for a change in the container size from a 90-gram container to an 85-gram container, as allowed under § 314.70(d) (21 CFR 314.70(d)). The amount of antibiotics per 85-gram container remained the same in accord with § 448.513e(a)(1): 10,000 units of bacitracin and 200,000 units of polymyxin B. These amounts are equivalent to 117.65 units of bacitracin per gram and 2352.94 units of polymyxin B per gram, and are very close to the rounded-off amounts requested by the petitioner.

After reviewing the citizen petition, the agency agreed that it would be appropriate to revise §§ 333.120(a)(7) and 448.513e(a)(1) to state the concentration of antibiotics contained in each gram of the final product. This revision would allow manufacturers to market other size aerosol products containing these antibiotics and would allow greater flexibility in reformulating existing products if the manufacturer elected to change the suitable vehicle and/or inert gases. The agency's proposed regulation, in the form of a proposed amendment of the final monograph for OTC first aid antibiotic drug products, was published in the **Federal Register** of May 11, 1990 (55 FR 19868). In that document, the agency proposed to amend the final monograph for OTC first aid antibiotic drug products in § 333,120(a)(7) and the exiting antibiotic regulation in § 448.513e(a)(1) to provide for bacitracin zinc-polymyxin B sulfate topical aerosol containing, in each gram, 120 units of bacitracin and 2,350 units of polymyxin B. In addition, the agency corrected an error that existed in § 448.513e(a)(1): 120 percent should have read 130 percent. Interested persons were invited to submit written comments by July 10, 1990, and to submit requests for an informal conference on the proposed change in § 448.513e(a)(1) by June 11, 1990.

No comments were received in response to the proposed amendments and no requests for an informal conference were received in response to the proposed amendment to 21 CFR 448.513e(a)(1).

As discussed in the proposal (55 FR 19868), the agency advised that any final rule resulting from the proposal would be effective 12 months after its date of publication in the **Federal Register**. Therefore, on or after October 3, 1991, any OTC drug product that is not in compliance with the final rule may not be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved application. Further, any OTC drug product subject to the role that is repackaged or relabeled after the effective date of the rule must be in compliance with the rule regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the rule at the earliest possible date.

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (55 FR 19868). The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this amendment of the final monograph for OTC first aid antibiotic drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (Pub. L. 96-354). That assessment included a discretionary regulatory flexibility analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC first aid antibiotic drug products is not expected to pose such an effect on small businesses. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an enviromental impact statement is required.

Any person who will be adversely affected by the amendment to 21 CFR Part 448.513e(a)(1) may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown.

Any person who decides to seek a hearing must file (1) on or before November 2, 1990, a written notice of participation and request for hearing, and (2) on or before December 3, 1990, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified, with the docket number appearing in the heading of this order, and filed with the Dockets Management Branch (address above).

The procedures and requirements governing this order, a notice of participation and request for a hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 333

First aid antibiotic drug products, Labeling, Over-the-counter drugs.

21 CFR Part 448

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, subchapter D of chapter I of title 21 of the Code of Federal Regulations is amended in parts 333 and 448 as follows:

PART 333—TOPICAL ANTIMICROBIAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for 21 CFR part 333 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371).

2. Section 333.120 is amended by revising paragraph (a)(7) to read as follows:

§ 333.120 Permitted combinations of active ingredients.

* * * * *

(a) * * *

(7) Bacitracin zinc-polymyxin B sulfate topical aerosol containing, in each gram, 120 units of bacitracin and 2,350 units of polymyxin B in a suitable vehicle, packaged in a pressurized container with suitable inert gases: *Provided,* That is meets the tests and methods of assay in § 448.513e(b) of this chapter.

* * * * *

PART 448—PEPTIDE ANTIBIOTIC DRUGS

3. The authority citation for 21 CFR part 448 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

4. Section 448.513e is amended by revising paragraph (a)(1) to read as follows:

§ 448.513e Bacitracin zinc-polymyxin B sulfate topical aerosol.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin zinc-polymyxin B sulfate topical aerosol is bacitarcin zinc, polymyxin B sulfate in a suitable and harmless vehicle, packaged in a pressurized container with suitable and harmless inert gases. Each gram contains 120 units of bacitracin and 2,350 units of polymyxin B. Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of bacitracin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of polymyxin B that it is represented to contain. Its moisture content is not more than 0.5 percent. It contains not more than an average of 10 microorganisms per container. The bacitracin zinc used conforms to the standards prescribed by § 448.13(a)(1). The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a)(1).

* * * * *

Dated: September 3, 1990

James S. Benson,

Acting Commissioner of Food and Drugs.

[FR Doc. 90-23347 Filed 10-2-90; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 341

[Docket No. 89N-0411]

RIN 0905-AA06

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Amendment of Final Monograph for OTC Antitussive Drug Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule amending the final monograph for over-the-counter (OTC) antitussive drug products in 21 CFR part 341. As amended, only the term "lozenge" is used to describe a solid dosage form oral antitussive drug product intended for dissolution in the mouth. Also, the final monograph is amended to clarify that a systemically acting antitussive drug product can be marketed in a lozenge dosage form. This amendment of the final monograph is part of the ongoing review of OTC drug products conducted by FDA.

EFFECTIVE DATE: October 3, 1990.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301) 295-8000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 12, 1987 (52 FR 30042), FDA issued a final monograph for OTC antitussive drug products (21 CFR part 341) that established conditions under which these products are generally recognized as safe and effective and not misbranded. The monograph currently provides for menthol to be used in a "lozenge" or "compressed tablet" dosage form (See §§ 341.3(c) and 341.74(d)(2)(iii).)

After publication of the antitussive final monograph, the United States Pharmacopeia (U.S.P.) (Ref. 1) added a definition for "lozenges." This definition, which became official in January 1990, is as follows:

> Lozenges are solid preparations containing one or more medicaments, usually in a flavored, sweetened base which are intended to dissolve or disintegrate slowly in the mouth. They can be prepared by molding (gelatin and/or fused sucrose or sorbitol base) or by compression of sugar based tablets. Molded lozenges are sometimes referred to as pastilles while compressed lozenges are often referred to as troches. They are usually intended for treatment of

local irritation or infections of the mouth or throat but may contain active ingredients intended for systemic absorption after swallowing.

The new U.S.P. definition of "lozenge" includes "compressed tablet" dosage forms. Accordingly, to make the antitussive final monograph consistent with the U.S.P. definition, FDA proposed an amendment to the final monograph in the **Federal Register** of October 2, 1989 (54 FR 40412). The proposal stated that only the term "lozenge" would be used to describe a solid dosage form to be dissolved in the mouth for a local effect. Thus, the term "compressed tablet" would be deleted from §§ 341.3(c) and 341.74(d)(2)(iii). In addition, FDA proposed to amend the definition of an "oral antitussive drug" in § 341.3(b) to clarify that such drugs may also be formulated as lozenges.

As mentioned, these revisions were proposed so that the monograph would conform to the U.S.P. definition of lozenges. Also, the agency was aware that antitussive drug products intended for systemic use were currently being marketed as lozenges (Ref. 2). The agency concluded that the revised definition of an oral antitussive drug would also be consistent with the new U.S.P. definition of lozenges.

References

(1) "The United States Pharmacopeia XXII—The National Formulary XVII," The United States Pharmacopeial Convention, Inc., Rockville, MD, p. 1692, 1989.

(2) "Physicians' Desk Reference—For Nonprescription Drugs," 9th Ed., Medical Economics Co., Inc., Oradell, NJ, pp. 512, 515, 651, and 652, 1988.

One comment from a manufacturer was submitted in response to the proposal. A copy of the comment is on public display in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. In proceeding with this amendment to the final monograph, the agency has considered the issues raised in the comment.

The comment expressed no objection to the proposed amendment to the antitussive final monograph provided that the following assumptions were correct:

1. A term other than lozenge could be used in the product's trade name or in the directions for use in § 341.74(d)(2)(iii). The comment stated that the terms "drop" and "cough drops" are the most widely used terms for this type of antitussive drug product.

In the proposal, the agency stated that various types of lozenges such as compressed tablets, troches, or pastilles would not be described in final monographs. However, these terms could continue to be used in labeling (54 FR 40412). Thus, the terms "drop" and "cough drop" can be used in a product's directions and as part of its trade name.

2. A term other than lozenge may be used in connection with the appropriate statement of identity.

The statement of identity for this type of product in § 341.74 (a) is "cough suppressant" or "antitussive (cough suppressant)" only. The monograph does not allow use of the term "lozenge," or any similar term, as part of the statement of identity. However, as noted above, terms other than lozenge may be used as part of the product's trade name.

3. The term "drop" or "cough drop" may be used in lieu of "lozenge" and will not affect the right to use the language "FDA Approved Information," as permitted by 21 CFR 330.1(c), where otherwise all other language has been stated as it appears exactly in the monograph.

The designation "FDA Approved Information" can be used under the terms of § 330.1(c)(2)(i) under certain conditions. If indication information appears in the boxed area, it must be stated in the exact language of the monograph. Other information that appears within the boxed area also must be stated in exact language where exact language has been established and identified by quotation marks in the final monograph. Regarding use of the term "drop" or "cough drop" in the boxed area, none of the indications or warnings information appearing in quotation marks in the final monograph contains the word "lozenge;" therefore, there would be no need to substitute the term "drop" or "cough drop" in these portions of the labeling. The word "lozenge" does appear in the directions information in the final monograph, but not in quotation marks. Thus, appropriate alternate words, such as "drop" or "cough drop," may be used in the boxed area in place of the word "lozenge" that appears in the monograph directions for such products.

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking on OTC antitussive drug products (54 FR 40412 at 40413). The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessments determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this amendment of the monograph for OTC antitussive drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (Pub. L. 96–354). That assessment included a discretionary regulatory flexibility analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking amending the final monograph for OTC antitussive drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 341

Antitussive drug products, Labeling, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act, subchapter D of chapter I of title 21 of the Code of Federal Regulations is amended in part 341 as follows:

PART 341—COLD, COUGH, ALLERGY, BRONCHODILATOR, AND ANTIASTHMATIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for 21 CFR part 341 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371).

2. Section 341.3 is amended by revising paragraphs (b) and (c) to read as follows:

§ 341.3 Definitions.

* * * * *

(b) *Oral antitussive drug.* A drug that either is taken by mouth or is dissolved in the mouth in the form of a lozenge and acts systemically to relieve cough.

(c) *Topical antitussive drug.* A drug that relieves cough when inhaled after being applied topically to the throat or chest in the form of an ointment or from a steam vaporizer, or when dissolved in the mouth in the form of a lozenge for a local effect.

* * * * *

3. Section 341.74 is amended by revising paragraph (d)(2)(iii) to read as follows:

§ 341.74 Labeling of antitussive drug products.

* * * * *

(d) * * *

(2) * * *

(iii) *For products containing menthol identified in § 341.14(b)(2) in a lozenge.* The product contains 5 to 10 milligrams menthol. Adults and children 2 to under 12 years of age: Allow lozenge to dissolve slowly in the mouth. May be repeated every hour as needed or as directed by a doctor. Children under 2 years of age: Consult a doctor.

* * * * *

Dated: September 4, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

[FR Doc. 90-23345 Filed 10-2-90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD1-87-088]

Special Anchorage Area; Perth Amboy, NJ

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is redesignating Anchorage Ground 45-A as a special anchorage. This anchorage is located in the waters contigous to the City of Perth Amboy, New Jersey. Raritan Yacht Club has requested the redesignation because the anchorage has historically been utilized solely by small recreational vessels. These vessels are currently required to be lighted at night. Raritan Bay is currently experiencing a resurgence of recreational boating during the summer months. This regulation will provide a safe anchorage well away from fairways where vessels less than 65 feet in length can safely remain unlighted at night. There are no such anchorages currently available in the immediate area.

EFFECTIVE DATE: November 2, 1990.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) C. W. Jennings, Waterways Management Officer, Captain of the Port, New York, at (212) 668-7933.

SUPPLEMENTARY INFORMATION: On December 1, 1989 the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for these regulations (54 FR 49776). Interested persons were requested to submit comments and no comments were received.

Drafting Information

The drafters of these regulations are LTJG C.W. Jennings, project officer, Captain of the Port, New York and LT J.B. Gately, project attorney, First Coast Guard District Legal Office.

Discussion of Comments

As previously stated no comments regarding the NPRM were received. This regulation is issued pursuant to 33 U.S.C. 2030, 2035, and 2070 as set out in the authority citation for all of part 110.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. Establishment of this proposed special anchorage area will not require dredging or result in increased cost to any segment of the public.

Since the impact of these regulations is expected to be minimal the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

Lists of Subjects in 33 CFR Part 110

Anchorage grounds.

Final Regulations

In consideration of the foregoing, part 110 of title 33, Code of Federal Regulations, is amended as follows:

PART 110—[AMENDED]

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 1.05-1(g). Section 110.1a and each section listed in 110.1a are also issued under 33 U.S.C. 1223 and 1231.

2. Section 110.60 paragraph (aa) is added to read as follows:

§ 110.60 Port of New York and vicinity.

* * * * *

(aa) South of Perth Amboy, New Jersey. The waters bounded by a line connecting the following points:

Latitude	Longitude
40°30'19.0"	74°15'46.0"
40°30'17.0"	74°15'39.0"
40°30'02.8"	74°15'45.0"
40°29'36.0"	74°16'09.2"
40°29'30.8"	74°16'22.0"
40°29'47.2"	74°16'52.0"
40°30'02.0"	74°16'43.0"

and thence along the shoreline to the point of beginning.

§ 110.155 [Amended]

3. Section 110.155 is amended by removing and reserving paragraph (j)(3).

Dated: August 29, 1990.

R.I. Rybacki,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 90-23298 Filed 10-2-90; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD1 90-172]

Safety Zone Regulations; Americas Cup Restaurant Octoberfest Fireworks Display

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Connecticut River between Middletown, CT and Portland, CT. This safety zone is needed to protect marine traffic from the safety hazard associated with a fireworks display in a narrow channel. Entry into this zone is prohibited unless authorized by the Captain of the Port, Long Island Sound.

EFFECTIVE DATES: This regulation becomes effective at 9:15 p.m. October 13, 1990, 15 minutes prior to the display. It terminates upon completion of the display at approximately 10 p.m. October 13, 1990, unless terminated sooner by the Captain of the Port. Rain date for this event will be 14 October 1990 at the same times.

FOR FURTHER INFORMATION CONTACT: Lt. David Skewes (203) 468-4464 or Captain of the Port, Long Island Sound duty watchstander at (203) 468-4464.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** Publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to protect any marine traffic from the potential hazards involved.

Drafting Information

The drafters of this regulation are LT David D. Skewes, project officer for Captain of the Port Long Island Sound, and LT Korroch, project attorney, First Coast Guard District Legal Office.

Discussion of Regulation

The event requiring this regulation is a fireworks display in the navigable waters of the United States. This Safety Zone is needed to protect any transiting commercial or recreational marine traffic from the possible hazards associated with the fireworks display.

This regulation is issued pursuant to U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160–5.

2. A new § 165.T1172 is added to read as follows:

§ 165.T1172 Safety Zone: Americas Cup Restaurant Octoberfest Fireworks Display.

(a) *Location.* The following area is a safety zone: All waters within a 500 ft radius around the fireworks launching platform approximately 500 ft offshore and directly adjacent to the Americas Cup Restaurant on the Connecticut River in Middletown, CT. The launching platform will be moved into and then anchored in the channel at approximately 6 p.m., between Connecticut River Buoys N"92" to the North and N"90" to the South. The main channel of the river will be closed to all marine traffic from 9:15 p.m. to until the completion of the display at approximately 10 p.m.

(b) *Effecitve date.* This regulation becomes effective on October 13, 1990 at 9:15 p.m. approximately 15 minutes prior to the display. It terminates upon completion of the display at approximately 10 p.m. October 13, 1990, unless terminated sooner by the Captain of the Port. Rain date will be 14 October 1990 at the same times.

(c) *Regulations:* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port or his on scene representatives.

Dated: September 19, 1990.

H. Bruce Dickey,

Captain, U.S. Coast Guard, Captain of the Port Long Island Sound.

[FR Doc. 90–23299 Filed 10–2–90; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 248, 249, 250, 252, and 253

[FRL–3836–6]

Guidelines for Federal Procurement of Products Containing Recovered Materials

AGENCY: Environmental Protection Agency.

ACTION: Guidelines, request for comments.

SUMMARY: The Environmental Protection Agency (EPA) has issued a series of guidelines designed to encourage the use of products containing materials recovered from solid waste. Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA or the Act), as amended, 42 U.S.C. 6962, states that if a procuring agency purchases certain designated items, such items must be composed of the highest percentage of recovered materials practicable. EPA is required to designate these items and to prepare guidelines to assist procuring agencies in complying with the requirement of Section 6002.

EPA issued the first of these guidelines, for cement and concrete containing fly ash, on January 28, 1983 (48 FR 4230; 40 CFR part 249). EPA issued a final guideline for paper and paper products containing recovered materials on June 22, 1988 (53 FR 23546; 40 CFR part 250), a final guideline for lubricating oils containing re-refined oil on June 30, 1988 (53 FR 24699; 40 CFR part 252), a final guideline for retread tires on November 17, 1988 (53 FR 46558; 40 CFR part 253), and a final guideline for building insulation products on February 17, 1989 (54 FR 7328; 40 CFR part 248).

As procuring agencies have implemented these guidelines, a number of issues have arisen and been identified by EPA. Some issues affect all of the guidelines; other issues affect only specific guidelines. EPA will from time to time publish **Federal Register** notices addressing such issues, as well as revisions to the existing guidelines or proposing new guidelines.

Today's notice addresses three issues. The first issue concerns a process for expediting EPA assistance to procuring agencies. The second issue concerns possible broad changes EPA is examining for printing and writing papers under the paper procurement guideline. EPA is requesting public comment on this second issue. The third issue concerns advice recently provided by EPA to procuring agencies in the case of a specific recovered material under the paper procurement guideline.

DATES: EPA urges interested parties to comment in writing on the questions identified in the second issue addressed in today's notice. The deadline for submitting written comments is December 3, 1990. The public must send on original and two copies of their comments to the RCRA Docket at the address below. Place docket number "F–90–PGPP–FFFFF" on all comments.

ADDRESSES: The RCRA docket for this notice is located in Room 2427 (Mailcode OS-305) of the U.S. EPA, 401 M Street SW., Washington, DC 20460, and is available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475–9327 for appointments. The public may copy materials from any docket at a cost of $0.15 per page. The reference number for this docket is "F-90-PGPP-FFFFF.

FOR FURTHER INFORMATION CONTACT: EPA Procurement Hotline at (703) 941–4452 or Richard Braddock, U.S. EPA, Municipal Solid Waste Program, Mailcode OS-301, 401 M Street, SW., Washington, DC 20460, telephone: (202) 382–2780.

SUPPLEMENTARY INFORMATION:

Notice Outline

I. Introduction

The Environmental Protection Agency (EPA) today is addressing three issues pertaining to section 6002 of the Resource Conservation and Recovery Act (RCRA) as amended, 42 U.S.C. 6962. In general terms, section 6002 requires each procuring agency subject to the statute to procure certain items of composed of the highest percentage of recovered materials practicable. EPA is responsible for preparing guidelines to assist procuring agencies in meeting the statutory requirements and to provide information on recovered materials. These guidelines must designate items that can be produced with recovered materials and whose procurement will carry out the objectives of section 6002.

Issue (1) applies to all procurement guidelines issued by EPA and clarifies procedures for implementing section 6002 of RCRA. EPA has adopted a new process, which is described in this notice, for providing information and advice to procuring agencies in carrying out their responsibilities. This process modification is being implemented to expedite government response to market developments for products containing recovered materials.

Issue (2) concerns the Guideline for Federal Procurement of Paper and Paper Products Containing Recovered Materials (53 FR 23546; 40 CFR part 250), published on June 22, 1988. EPA is examining broad changes to the minimum content standards for high grade printing and writing papers. Specifically, EPA is investigating changes to the "waste paper" definition, including the possible addition of a recommended percentage for postconsumer content in high grade printing and writing papers. EPA is soliciting public comment on these possible changes.

Issue (3) also concerns the paper procurement guideline. EPA recently advised two Federal procuring agencies that it would be appropriate to include sawdust, used by Lincoln Pulp and Paper Co. and Eastern Fine Paper, Inc. in Maine, in their minimum content standards for high grade printing and writing paper. This notice explains EPA's view that in this case, the sawdust is recovered for use in the manufacture of paper by means of a specialized technology (i.e., it is not used in the paper making process as standard practice). Also, in this case, the sawdust does not have viable alternative uses, and its recovery provides specific environmental benefits.

II. Issue (1): EPA Procedure for Assisting Procuring Agencies.

EPA has examined a number of approaches to assist the large array of procuring agencies in implementing the procurement guidelines, especially given the dynamic nature of technologies and products utilizing recovered materials. In examining this issue, EPA reviewed its statutory role and responsibilities and that of procuring agencies implementing section 6002 of RCRA.

A. Responsibilities Under Section 6002 of RCRA

Section 6002 of RCRA assigns specific responsibilities to the EPA, the Office of Federal Procurement Policy (OFPP), Federal specification-writing agencies, and individual procuring agencies. Brief summaries of the assigned responsibilities follow:

EPA is responsible for preparing guidelines for use by procuring agencies in fulfilling their responsibilities under the Act. The guidelines are published in the Federal Register and serve three purposes. First, they designate items produced with recovered materials for which a Federal procurement guideline is appropriate. EPA selects procurement items based on the following four criteria:

(1) The waste material must constitute a significant solid waste management problem due either to volume, degree of hazard, or difficulties in disposal;

(2) Economic methods of separation and recovery must exist;

(3) The material must have technically proven uses; and

(4) The Federal government's ability to affect purchasing or use of the final product or recovered material must be substantial.

Second, the guidelines provide product information concerning availability and performance of products produced with recovered materials. Third, the guidelines set forth recommended procurement practices to aid agencies in procuring products made with recovered materials including, where appropriate, recommended levels of recovered materials to be contained in the procured product. To date, EPA has completed guidelines for five procurement items: paper and paper products, re-refined oil, retread tires, building insulation materials, and cement and concrete containing fly ash.

Within one year of the publication of an EPA guideline, procuring agencies must assure that specifications for the items covered by the guideline require the use of recovered materials to the maximum extent possible without jeopardizing the intended end use of the designated items. In addition, procuring agencies must develop an affirmative procurement program for procuring the designated items. The program must assure that items composed of recovered materials will be purchased to the maximum extent practicable; the program must be consistent with applicable provisions of Federal procurement law; and the program must contain at least the following four elements:

(1) A recovered materials preference program;

(2) An agency promotion program;

(3) A program for requiring estimates, certification, and verification of recovered material content; and

(4) Annual review and monitoring of the effectiveness of the procurement program.

By May 8, 1988, Federal specification-writing agencies were to have reviewed and revised their procurement specifications in order to eliminate exclusions of recovered materials and requirements that items be manufactured from virgin materials.

OFPP is responsible for implementing the requirements of section 6002 of RCRA. OFPP must coordinate policy contained in section 6002 with other policies on Federal procurement in such a way as to maximize the use of recovered materials. Every two years, beginning in 1984, OFPP is to report to the Congress on actions taken by Federal agencies to implement Section 6002. OFPP has issued reports covering 1984/1985, 1986/1987, and 1988/1990.

B. Implementation of Section 6002 of RCRA

Once a procurement guideline is issued, responsibility for complying with Section 6002 rests with the procuring agencies. Under RCRA Section 6002, it is the responsibility of all procuring agencies to monitor and procure guideline items containing the highest quantity of recovered materials practicable. EPA's published recommendations on procurement practices are a first step for procuring agencies, but, as the statute indicates, they are *recommended* practices, not strict requirements. Procuring agencies are responsible for revising their

programs as needed to achieve the statutory goal.

RCRA section 6002 does not give EPA explicit implementation responsibilities after it issues a guideline, other than revising the guideline from time to time. Revising a guideline and publishing it in the **Federal Register**, however, often takes up to two years. Therefore, in addition to guideline revisions, EPA has adopted a process for providing information and advice to procuring agencies in carrying out their responsibilities.

The following on-going activities have been implemented to assist procuring agencies:

- EPA set up a Procurement Guidelines Hotline at (703) 941–4452. The hotline distributes information and answers questions on the guidelines and distributes lists of manufacturers and distributors of guideline items. Also, through the hotline, EPA collects market information on the manufacture and availability of guideline items.
- EPA monitors and helps resolve guideline implementation problems by tracking questions that come into the hotline and by working with representatives of various Federal procuring agencies.
- EPA publicizes the guidelines through speeches at conferences, articles in various trade magazines, meetings, with affected agencies, manufacturers and vendors, and the distribution of descriptive materials.
- EPA is planning a series of regional workshops for 1991 and 1992 to educate Federal and state procuring agencies on the guidelines. EPA is also providing grants to local government organizations to conduct procurement workshops.

In addition to the above activities, EPA has initiated a new process to help communicate current knowledge about guideline items to Federal procuring agencies and assist them in meeting their responsibilities under section 6002. The process consists of numbered memoranda called *Procurement Guideline Advisories* (PGA's) which are distributed to procuring agencies to inform them of changes in the market for a particular guideline item. These memoranda can be referenced by procuring agencies as they revise and update their affirmative procurement programs. Periodically, EPA may propose changes to the guidelines to reflect these and other modifications to EPA's recommendations for affirmative procurement programs.

As an example of the above process, EPA might conclude that the recommended minimum content standard for a particular paper item could be increased because market changes have made higher content levels readily available at a reasonable price. Procuring agencies using the lower minimum content standard may not be procuring items composed of the highest percentage of recovered materials practicable as required by RCRA Section 6002. As EPA is apprised of the situation, it can investigate a higher minimum content standard and advise the procuring agencies through a Procurement Guideline Advisory. Procuring agencies can then revise their affirmative procurement programs. Later, EPA could propose the higher minimum content standard along with other changes as revisions to the paper guideline.

EPA believes that this process of issuing Procurement Guideline Advisories followed by periodic formal revisions to the guidelines will best enable EPA to assist procuring agencies. Procuring agencies can and should respond to the development of innovative technologies and suitable products which meet the goals of the procurement guidelines, based on their experiences and on information received from EPA and others. They should not wait for **Federal Register** notices of revisions in EPA's recommended standards. This way, all procuring agencies can implement RCRA Section 6002 in a more timely manner and accomplish the goal of encouraging the development of markets for recovered materials.

C. Actual Examples of the New EPA Process

Case 1—Rock Wool Insulation

An example of the PGA process is shown in the case of EPA's Procurement Guideline for Building Insulation Products [40 CFR part 248; 54 FR 7328 (February 17, 1989)].

EPA received information that the recommended minimum content standard for slag in rock wool insulation was below current industry practice and could be raised, thereby increasing the amount of recovered materials procured. EPA conducted a survey of nine major manufacturers of rock wool insulation and found that the present minimum content level, in most cases, is lower than the present level of recovered materials being used by rock wool manufacturers. Six of the nine manufacturers indicated that they were either currently exceeding or could easily meet a 75 percent minimum content standard. Of the three manufacturers which could not easily meet a 75 percent minimum content standard, two did not meet the original 50 percent standard.

Based on results of the survey, EPA believes that it is appropriate for procuring agencies to revise their specifications for rock wool insulation to a higher minimum content standard of 75 percent slag. EPA issued Procurement Guideline Advisory #1 which makes this information available to Federal procuring agencies for their consideration in revising their affirmative procurement programs. Based on procuring agency experience and EPA review of the industry, EPA may formally propose this change as part of a future guideline revision.

Case 2—High Speed Copier Paper and Forms Bond

An example of procuring agencies implementing RCRA section 6002 by revising their affirmative procurement program is shown in the case of high speed copier paper and forms bond.

In the paper guideline, EPA did not recommend a minimum content standard for high speed copier paper and forms bond, which includes computer and carbonless paper. At the time of promulgation, EPA found insufficient production of these papers with recycled content to assure adequate competition. Since publication of the guideline, however, a number of high speed copier papers and forms bond with recycled content are now available.

EPA supplied the Joint Committee on Printing (JCP), which sets Federal Government specifications for fine printing and writing papers, with information on the increased availability of high speed copier papers and forms bond. Based on this information and based on the success of their first year's experience procuring paper meeting EPA minimum content standards, JCP developed several new paper specifications for recycled content. These new specifications, among other things, set minimum content standards for high speed copier paper and forms bond.

JCP has informed Federal procuring agencies of the new specifications. EPA is planning to issue a second Procurement Guideline Advisory containing the JCP specifications. Based on procuring agency experience and EPA review of the industry, EPA may propose a revision to the paper guideline as part of a future rulemaking.

III. Issue (2): EPA Investigation of Broad Changes in the Minimum Content Standards for High Grade Printing and Writing Papers.

A. Background

Section 6002(h) of RCRA divides the universe of recovered paper materials into (1) postconsumer materials and (2) manufacturing, forest residues, and other wastes. Postconsumer materials are defined as two types: (i) "Paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage" and, (ii) "All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste." The Hazardous and Solid Waste Amendments of 1984 amended section 6002 of RCRA to require that, in the case of paper, the EPA guideline would maximize the use of postconsumer recovered material.

In promulgating the paper guideline, EPA recommended postconsumer minimum content standards for most grades of paper. However, EPA found that it was not advisable to recommend postconsumer minimum content standards for printing and writing papers. For technical and economic reasons, few manufacturers of printing and writing papers were found to be willing or able to meet such a standard. Thus, for printing and writing papers, EPA recommended a "waste paper" minimum content standard which includes postconsumer recovered materials and certain categories of non-postconsumer recovered materials.

The paper guideline defines "Waste paper" (40 CFR 250.4(ss)) to include all postconsumer recovered materials as defined in RCRA Section 6002(h)(1), plus the following preconsumer waste paper categories: (1) Dry paper paperboard waste generated after completion of the paper making process and, (2) Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters or others. In describing the "waste paper" recommendation, EPA indicated that as more "waste paper" is used for printing and writing papers, there will be less available as a raw material for other products such as tissue and towel. As a result, manufacturers of these products will use more postconsumer recovered materials. (See 53 FR 23554, June 22, 1988 for additional discussion.)

During the last year, manufacturers of both newsprint and tissue paper grades have announced new or expanded deinking capacity, thus raising the prospect of additional use of postconsumer materials. Anticipating similar expansions in the deinking capacity for producing high quality pulp for use in printing and writing papers, EPA is evaluating possible revisions to the minimum content standards for these paper grades. The evaluation will be based on the following two goals:

(1) The Federal Government should use its purchasing power to encourage the market for high grade printing and writing papers containing postconsumer recovered materials. There is presently little deinking capacity to convert postconsumer recovered materials to a quality pulp for use in printing and writing papers. Expanding the deinking capacity entails large capital investments on the part of the paper industry. Therefore, as the deinking capacity expands, the minimum content standards should be adjusted to help provide continued incentive for market expansion.

(2) The Federal Government should maintain high participation in recovered material paper markets. Since EPA issued the paper procurement guideline, a high percentage of Federal paper purchases have successfully met the minimum content standards for high grade printing and writing papers. For example, the Joint Committee on Printing recently stated that 85 percent of the Government Printing Office's direct paper purchases meet EPA's minimum content standards. During the first six months of fiscal year 1990, the overall average of EPA's publications and letterheads printed on paper meeting the minimum content standards exceeded 98 percent.

Moving too quickly to stringent postconsumer minimum content standards could reduce the Federal government's purchases of paper containing recovered materials. Procuring agencies put a great deal of effort into developing new specifications and bid packages. Failure to receive adequate bids in response to solicitations for paper with postconsumer content may lead procuring agencies to drop the use of any minimum content standards in new solicitations. This opens up the procurement process to paper with less recycled content than under current practice. Therefore, revising EPA's recommended minimum content standards must balance the desire to help provide a market for printing and writing papers containing postconsumer recovered materials with a realistic assessment of the markets.

EPA is monitoring the market for printing and writing papers in anticipation of adding or phasing in postconsumer minimum content standards at some point in the future. The purpose of this section of today's notice is to request public comment on possible actions EPA can take.

B. Inclusion of Postconsumer Content in High Grade Printing and Writing Papers

EPA is considering recommending minimum content standards for high grade printing and writing papers consisting of a combination of "waste paper" content and postconsumer content. For example, EPA might choose to recommend a minimum of 45% "waste paper" content and 5% postconsumer content. EPA is interested in receiving information on whether or not such an approach is feasible, given the current supply of printing and writing papers with postconsumer content, and, if so, what percentages of "waste paper" content and postconsumer content EPA should recommend for various high grade printing and writing papers.

The high grade printing and writing papers for which EPA has recommended minimum content standards (see 53 FR 23555) are shown in Table 1.

TABLE 1.—EPA RECOMMENDED MINIMUM CONTENT STANDARDS FOR SELECTED HIGH GRADE PRINTING AND WRITING PAPERS

	Minimum percentage of waste paper
Offset printing	50.
Mimeo and duplicator paper	50.
Writing (stationery)	50.
Office paper (e.g., note pads).	50.
Paper for high-speed copiers	[1]
Envelopes	50.
Form bond including computer paper and carbonless.	[1]
Book papers	50.
Bond papers	50.
Ledger	50.
Cover stock	50.
Cotton fiber paper	25 percent recovered cotton fiber.

[1] At the time of promulgation, EPA found insufficient production of these papers with recycled content to assure adequate competition.

EPA's decision to adopt recommended postconsumer content standards will be based on the following criteria: printing and writing papers with postconsumer content are adequately available to procuring agencies at a reasonable price; adequate competition exists in the market for printing and writing papers with postconsumer content; and printing and writing papers with postconsumer

content can meet performance specifications. EPA is interested in obtaining information addressing these criteria for all of the above papers including paper for high speed copiers and form bond, which includes computer paper and carbonless.

C. Inclusion of Deinked Waste Paper Content in High Grade Printing and Writing Papers

It may be possible that use of any minimum percentage of postconsumer content will cause extreme restrictions on availability and competition over the next several years. Anticipating such restrictions, EPA is considering recommending deinked waste paper standards in place of postconsumer content standards for printing and writing papers. An alternative is to adopt a deinked waste paper standard. A deinked waste paper standard would include all postconsumer recovered materials and printed preconsumer waste paper. Printed preconsumer waste paper includes such materials as printer's overruns, misprints and unsold stock, and unsold magazines or newsprint.

A deinked waste paper standard would include only recovered materials which typically must be deinked before being converted into pulp for printing and writing papers. Therefore, this category of recovered materials can help stimulate the investment in deinking capacity required before the use of postconsumer recovered materials can expand. Also, because some categories of deinked waste paper are readily available to paper manufacturers, paper meeting a minimum deinked waste paper content standard may be available sooner than paper meeting a strict postconsumer content standard.

If it decides to recommend a deinked waste paper standard, EPA will consider adopting a combination of "waste paper" content and deinked waste paper content. For example, EPA might choose to recommend minimum content standards of 45% "waste paper" content and 5% deinked waste paper content. EPA is interested in receiving information on whether or not such an approach is feasible, given the current supply of printing and writing papers with deinked waste paper content, and, if so, what percentages of "waste paper" content and deinked waste paper content EPA should recommend for various high grade printing and writing papers. Comments should also address how these percentages will affect price, availability, competition and performance of the final product.

D. Phase-in of Postconsumer or Deinked Waste Paper Content in High Grade Printing and Writing Papers

It may not be possible, at this time, to recommend either postconsumer or deinked waste paper minimum content standards for printing and writing papers. In that case, EPA might consider a phased-in approach. Such an approach could recommend that procuring agencies begin using a specified percentage of postconsumer or deinked waste paper content in their minimum content standards at some future point in time. This future point in time would be set to allow for capital investments in deinking equipment. The purpose of phasing in the standards would be to help assure paper manufacturers considering investment in deinking equipment that a market for their products will exist.

EPA is asking for comment on the positive or negative aspects a phased-in approach would have on the market for paper products with postconsumer or deinked content. If EPA chooses such an approach, then what are reasonable percentages of postconsumer or deinked waste paper content to recommend and what is a reasonable point in the future to recommend that the percentages take effect?

E. Investigation of Revised Mill Broke Definition

EPA's "waste paper" definition excludes mill broke, which is defined as any paper waste generated before completion of the papermaking process. According to RCRA Section 6002, this means any paper waste generated during "those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets" (40 CFR 252.4(ss)(2)(i)).

Since the paper guideline went into effect on June 22, 1989, EPA has received a number of inquiries concerning the mill broke definition. These inquiries point out that the definition is not always clear in how it applies to the actual paper making process. Also, EPA received information suggesting that paper mills are able to satisfy the current 50% "waste paper" minimum content standards by using paper waste generated completely in-house but which is not mill broke under the present definition.

The information suggests that paper mills may save paper waste generated after cutting and trimming of the paper machine reel into smaller rolls until enough paper waste is available to satisfy a 50 percent "waste paper" minimum content standard. The mills can then use this accumulated paper waste to manufacture a paper batch meeting the guideline's minimum content standards. This practice of using only in-house paper waste does not divert waste from landfills and does not stimulate demand in the waste paper markets in order to indirectly promote the use of postconsumer recovered materials. EPA believes that although this practice may qualify under the guideline, it is not consistent with the intent of the guideline. Therefore, EPA is interested in receiving information on whether or not this is actually happening. If it is, how can EPA restructure the mill broke definition to prevent the practice?

F. Summary of Request for Comment

EPA is asking for information concerning postconsumer content and/or deinked waste paper content in high grade printing and writing papers. Information and comments should address how content percentages will affect price, availability, competition and performance of the final product. EPA is asking for comment on the positive or negative aspects of a phased-in approach on the market for paper products with either postconsumer or deinked waste paper content. EPA is also interested in receiving information on whether or not paper mills are able to meet the guideline requirements by using paper waste generated completely in-house. If they are, how can EPA restructure the mill broke definition to prevent the practice?

On issues raised about postconsumer and/or deinked waste paper content standards, EPA is particularly interested in hearing from paper manufacturers who produce printing and writing papers using either postconsumer recovered materials or deinked waste paper. EPA is also interested in learning about the experiences of state and local procurement programs using postconsumer or deinked waste paper minimum content standards. On the issues raised about the mill broke definition, EPA is particularly interested to hear from state and local procurement agencies that use mill broke definitions which differ from EPA's.

IV. Issue (3): Including Certain Preconsumer Recovered Materials in Procuring Agencies' Minimum Content Standards

A. Background

The Hazardous and Solid Waste Amendments of 1984 amended section 6002 of RCRA to require that, in the case of paper, the EPA guideline would

maximize the use of postconsumer recovered material. Congressman Wyden, in the Congressional debates preceding adoption of this amendment, stated the following (129 Cong. Rec. H9160 (daily ed.) Nov. 3, 1983):

> The GSA two-part definition [of recycled paper] recognizes the difference between postconsumer recovered materials—the materials headed for our Nation's landfills—and the pulp and paper industry manufacturing wastes and forest residues which are often used in the papermaking process as standard practice or have alternative uses if they are not recovered for the papermaking process.

In other words, HSWA focuses on promoting the use of postconsumer recovered materials through the paper guideline because these materials typically head for landfills.

As stated in section III of this Federal Register notice, EPA found that it was not advisable to recommend exclusively postconsumer minimum content standards for printing and writing papers at the time that the paper guideline was issued. Thus, EPA recommended "waste paper" minimum content standards, which include all postconsumer recovered materials as defined in RCRA section 6002(h)(1), plus the following preconsumer waste paper categories: (1) Dry paper and paperboard waste generated after completion of the papermaking process and, (2) Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters or others.

B. Preconsumer Recovered Material Used in a Specialized Technology

Since issuing the paper guideline, EPA learned of a situation in which a specialized papermaking technology uses waste sawdust in the manufacture of printing and writing papers. Lincoln Pulp and Paper Co., in Maine, employs a specialized pulping technology for recovering sawdust from sawmills. This process converts to a beneficial use a waste which is otherwise typically disposed of on land. Lincoln's pulp is then used by Eastern Fine Paper, Inc., also in Maine, to manufacture fine printing and writing papers.

Presently, Maine does not appear to have viable alternative markets for sawdust. Based on correspondence received by EPA from the Maine Department of Environmental Protection (DEP), sawdust generated in central and northern Maine which is not converted into paper pulp presents a solid waste problem. It is either piled or landfilled, presenting a run-off or leachate problem, or less frequently burned. Burning small particle sized sawdust in combustion devices typical of Maine presents an air pollution problem, according to the Maine DEP.

Sawdust is excluded from the "waste paper" definition used in EPA's paper guideline (see 53 FR 23551 (June 22, 1988)). Adoption of EPA's definition and the consequent reduction in the amount of Federal purchases of paper containing fibers recovered from sawdust could result in a reduction in the manufacture of pulp and fine paper by Lincoln and Eastern. A reduction would most likely cause an increase in the amount of sawdust piled or burned in Maine.

C. Federal Procurement of Preconsumer Recovered Material Used by a Specialized Technology

Based on the situation described above, Lincoln and Eastern requested that EPA include sawdust in its recommended minimum content standards. In light of the solid waste problems associated with sawdust in Maine, EPA developed a set of criteria to determine if it would be appropriate for procuring agencies to include certain preconsumer recovered materials (such as the sawdust used by Lincoln and Eastern) in their minimum content standards.

The criteria used for examining a specific paper manufacturing process using a specific recovered material are as follows:

(1) Will including the recovered material in procuring agencies' minimum content standards either directly or indirectly displace the use of post consumer recovered materials?

(2) Does the recovered material have economically viable alternative uses within the area where it is generated? (i.e., the recovered material will not be disposed if it is not used in paper manufacturing.)

(3) Is the material recovered for use in paper manufacturing as a standard practice in the industry (i.e., recovery does not require the use of specialized technologies)?

If the answer to any of the above questions is *yes*, then the EPA believes it is *not appropriate* to include the recovered material in minimum content standards. EPA believes it is appropriate for procuring agencies to include a recovered material which passes these criteria in their minimum content standards for printing and writing papers. The above criteria reflect both the solid waste management benefits and potential negative effects on postconsumer recovered material markets.

EPA evaluated sawdust used by Lincoln and Eastern under the above criteria to determine if it would be appropriate for procuring agencies to include it in their minimum content standards. Under the first criterion, printing and writing papers have not been generally available to the Federal government with postconsumer content. Therefore, including sawdust used by Lincoln and Eastern should not directly displace postconsumer recovered materials.

Also, including sawdust used by Lincoln and Eastern should not indirectly displace postconsumer recovered materials by pushing preconsumer waste paper into lower grade paper products which are presently using postconsumer recovered materials. The portion of Lincoln's paper pulp produced from sawdust is lower than 50 percent. Therefore, Eastern Fine Papers must mix a 100 percent "waste paper" pulp with Lincoln's pulp to meet a 50 percent minimum content standard which includes Lincoln's pulp made from sawdust. The 50 percent standard assures that Eastern must use a substantial amount of "waste paper". Under such circumstances including sawdust in minimum content standards would not be inconsistent with the statutory obligation to purchase paper with postconsumer recovered materials content to the maximum extent practicable.

Under the second criterion, information received from Lincoln, Eastern and the Maine DEP, indicates that sawdust does present a solid waste disposal problem in Maine when not used in paper manufacturing. The sawdust will typically be piled or landfilled because economically viable alternative markets do not exist in central and northern Maine. Lincoln Pulp and Paper purchases over 200,000 tons of sawdust annually, virtually all of the sawdust produced by sawmills in central and northern Maine. This tonnage is approximately 70 percent of all sawdust produced in Maine.

Composting sawdust has not proven to be a viable alternative for the large volume of sawdust produced in this area. Composting is being employed in the area, but it does not adequately deal with the large number of existing sawdust piles left scattered throughout Maine from poor disposal practices of the past.

Under the third criterion, Lincoln employs a specialized M&D digester to convert small particle sized sawdust from Maine sawmills into paper pulp. Lincoln produces a pulp blend derived from sawdust and hard wood chips. Therefore, Lincoln relies on sawdust, which is derived exclusively from

softwood trees, to upgrade the strength of its pulp.

EPA believes that sawdust used by Lincoln and Eastern qualifies under the above criteria. On May 25, 1990, EPA informed Federal paper procuring agencies that EPA believes that it is appropriate to include sawdust, as it is being used by Lincoln Pulp and Paper, Co. and Eastern Fine Paper, Inc., in their minimum content standards for printing and writing papers.

EPA's statement to procuring agencies pertains only to sawdust as it is being used by Lincoln and Eastern. Other paper manufacturers may face a similar situation and feel that sawdust used by their process should be included in procuring agencies' minimum content standards for printing and writing papers. For example, a spcialized paper manufacturing process may use the same type of sawdust particles as Lincoln Pulp and Paper in Maine. If the manufacturing process is located in a region where viable alternative markets exist for the sawdust, however, the sawdust would not be appropriate for inclusion in the minimum content standards of procuring agencies.

Dated: September 17, 1990.

Mary A. Gade,

Acting Assistant Administrator Office of Solid Waste and Emergency Response.

[FR Doc. 90-22982 Filed 10-2-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-322; RM-6641]

Radio Broadcasting Services; Tuscaloosa, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 225C1 for Channel 225C2 at Tuscaloosa, Alabama, and modifies the license issued to Radio South, Inc., for Station WTUG(FM), as requested, to specify operation on the higher powered channel, thereby providing that community with an additional expanded coverage FM service. See 54 FR 31061, July 26, 1989. Coordinates for Channel 225C1 at Tuscaloosa are 33-03-36 and 87-32-43. With this action, the proceeding is terminated.

EFFECTIVE DATE: November 13, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-322, adopted September 18, 1990, and released September 28, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Tuscaloosa, Alabama, is amended by removing Channel 225C2 and adding Channel 225C1.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-23403 Filed 10-2-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-564; RM-7016]

Radio Broadcasting Services; Forrest City, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 228C3 for Channel 228A at Forrest City, Arkansas, and modifies the license of Forrest City Broadcasting Company for Station KBFC(FM), as requested, to specify operation on the higher powered channel, thereby providing that community with a wide coverage area FM service. *See* 54 FR 52421, December 21, 1989. Coordinates used for Channel 228C3 at Forrest City are 34-52-36 and 90-55-00. With this action, the proceeding is terminated.

EFFECTIVE DATE: November 13, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-564, adopted September 18, 1990, and released September 28, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Forrest City, Arkansas, is amended by removing Channel 228A and adding Channel 228C3.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-23404 Filed 10-2-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-613; RM-7027]

Radio Broadcasting Services; Seelyville, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 240A to Seelyville, Indiana, as that community's first local broadcast service, in response to a petition for rule making filed on behalf of Victory Christian Center. *See* 55 FR 1483, January 16, 1990. Coordinates for Channel 240A at Seelyville are 39-29-50 and 87-17-21. With this action, the proceeding is terminated.

DATES: Effective November 13, 1990; the window period for filing applications on Channel 240A at Seelyville, Indiana, will open on November 14, 1990, and close December 14, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 632-0394.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-613, adopted September 18, 1990, and released September 28, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Indiana, by adding Seelyville, Channel 240A.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-23401 Filed 10-2-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-399; RM-6807]

Radio Broadcasting Services; Columbia, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 276C3 for Channel 276A at Columbia, Louisiana, and modifies the Class A license issued to Tom Gay, d/b/a The Radio Group, for Station KCTO-FM, as requested, to specify operation on the higher powered channel, thereby providing that community with an expanded coverage FM service. *See* 54 FR 39209, September 25, 1989. Coordinates for Channel 276C3 at Columbia are 32-02-00 and 92-15-00. With this action, the proceeding is terminated.

EFFECTIVE DATE: November 13, 1990.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-399, adopted September 18, 1990, and released September 28, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Columbia, Louisiana, is amended by removing Channel 276A and adding Channel 276C3.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-23400 Filed 10-2-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-435; RM-6810]

Radio Broadcasting Services; Fuquay-Varina, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Ceder Raleigh Limited Partnership, substitutes Channel 280C3 for Channel 280A at Fuquay-Varina, North Carolina, and modifies its license for Station WNND to specify operation on the higher powered channel. *See* 54 FR 41469, October 10, 1989. Channel 280C3 can be allotted to Fuquay-Varina in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.6 kilometers (6.0 miles) east to avoid a short-spacing to Station WTQR, Channel 281C, Winston-Salem, North Carolina. The coordinates for Channel 280C3 at Fuquay-Varina are North Latitude 35-33-46 and West Longitude 78-41-51. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 13, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-435, adopted September 19, 1990, and released September 28, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments under North Carolina, is amended by removing Channel 280A and adding Channel 280C3 at Fuquay-Varina.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-23399 Filed 10-2-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-494; RM-5869]

Radio Broadcasting Services; Big Stone Gap, VA and Barbourville, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 228C2 for Channel 228A at Big Stone Gap, Virginia, and modifies the license of Station WLSD-FM, accordingly, as that community's first wide coverage area FM service, at the request of Valley Broadcasting, Inc. This action also substitutes Channel 241A for Channel 228A at Barbourville, Kentucky, and modifies the license of Station WYWY-FM, accordingly, in order to accomplish the Big Stone Gap substitution. Channel 228C2 can be allotted to Big Stone Gap in compliance with the Commission's minimum

distance separation requirements with a 7.8 kilometers (4.9 miles) site restriction at coordinates 36–53–22 and 82–51–38. Channel 241A can be used at the present transmitter site of Station WYWY–FM at Barbourville. The coordinates are 36–51–55 and 83–53–55. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 13, 1990.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 87–494, adopted September 18, 1990, and released September 28, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Virginia, by removing Channel 228A and adding Channel 228C2 at Big Stone Gap; and under Kentucky, by removing Channel 228A and adding Channel 241A at Barbourville.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–23402 Filed 10–2–90; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

Federal Acquisition Regulation (FAR); Technical Amendment and Correction; Correction

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule; correction.

SUMMARY: This document corrects the Technical Amendments and Correction final rule published in the **Federal Register** on September 18, 1990 (55 FR 38516). This document is necessary to ensure that the Code of Federal Regulations is correctly amended.

FOR FURTHER INFORMATION CONTACT: Ms. Sharon A. Kiser, (202) 501–4755.

Correction

1. In FR Doc. 90–21554, beginning on page 38516 in the issue of Tuesday, September 18, 1990, amendatory instruction number 49, appearing on page 38518, in the second and third columns, was inadvertently added and is hereby removed.

Dated: September 28, 1990.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

[FR Doc. 90–23370 Filed 10–2–90; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AA24

Migratory Bird Hunting: Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands For the 1990–91 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule corrects the recent final rule on special migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands and ceded lands. This amendment is in response to tribal and other requests for Service corrections of final rule provisions for tribal hunting under established guidelines. The parent rule for these corrections is necessary to allow establishment of season bag limits and, thus, harvest at levels compatible with populations and habitat conditions.

EFFECTIVE DATE: This rule takes effect on October 3, 1990.

ADDRESSES: Comments received on final and proposed special hunting regulations and tribal proposals are available for public inspection during normal business hours in Room 634-Arlington Square Building, 4401 N. Fairfax Drive, Arlington, VA. Communications regarding the documents should be addressed to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Room 634-Arlington Square, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Dr. Keith A. Morehouse, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Room 634-Arlington Square, Washington, DC 20240 (703/358–1773).

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

In the Friday, August 31, 1990 **Federal Register** (55 FR 35638), the U.S. Fish and Wildlife Service (Service) finalized special migratory bird hunting regulations for the 1990–91 hunting season for certain Indian tribes, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). The guidelines were developed in response to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal members and nonmembers on their reservations. The guidelines include possibilities for: (1) On-reservation hunting by both tribal members and nonmembers, with hunting by nontribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s); (2) on-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and (3) off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits. In all cases, the regulations established under the guidelines are consistent with the March 10-September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada. Tribes that desired special hunting regulations in the 1990–91 hunting season were requested in the February 23, 1990, **Federal Register** (55 FR 6584) to submit a proposal that included details

on: (1) Requested season dates and other regulations to be observed; (2) harvest anticipated under the requested regulations; (3) methods that will be employed to measure or monitor harvest; (4) steps that will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would impact seriously on the migratory bird resource; and (5) tribal capabilities to establish and enforce migratory bird hunting regulations. No action is required if a tribe wishes to observe the hunting regulations that are established by the State(s) in which an Indian reservation is located. The guidelines have been used successfully since the 1985–86 hunting season, and they were made final beginning with the 1988–89 hunting season. The final rule referenced above contained errors in regulations for three Tribes that are corrected in this amendment.

Tribal Requests For Regulations Corrections

The Shoshone-Bannock Tribes of the Fort Hall Indian Reservation in Fort Hall, Montana, requested that the season date be corrected in the "Ducks' category (50 CFR 20.110(c)(1)) in the final regulations. The beginning and ending dates for the season should be October 20 and December 17, respectively, and they are so noted in this amendment.

The Great Lakes Indian Fish and Wildlife Commission (GLIFWC), Odanah, Wisconsin, notified the Service, on September 7, 1990, that a part of the information contained in 50 CFR 20.110(g)(8)(vi) is incorrect. The part that is incorrect pertains to shooting from structures, and is noted as "* * * sec. NR 10.12(1)(C), Wis. Adm. Code (shooting from structures) * * *" Instead, the reference should have been to § 10.09 of the Tribal Model Off-Reservation Conservation Code (Structures), a conservation code similar to the requirements of 50 CFR part 20 and which results from the *Voigt* litigation that the Tribes and the State of Wisconsin have agreed to. The change requested by the GLIFWC is made in this amendment.

Also, the Confederated Salish and Kootenai Tribes of the Flathead Nation, Pablo, Montana, advised that the special goose area anticipated for early closing was incorrectly described in the final rule. The special goose hunting area (50 CFR 20.110(h)(2) Special Exception for Geese) is redescribed in this amendment. The date of opening was given incorrectly as November 30, 1990; it should have been November 25, 1990.

Other Corrections

It has been noted also that at the beginning of the codification section the revision language (Part 20—[AMENDED] 2.) incorrectly references Part 21. That line should read: "2. § 20.110 is revised to read as follows:"

In summary, this document corrects the final rule published on August 31, 1990, that amended § 20.110 of 50 CFR to make current for the 1990–91 migratory bird hunting season the taking regulations that will apply on certain Federal Indian reservations, off-reservation trust lands and ceded lands.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES–75–74)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). A supplement to the final environmental statement "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (SEIS 88–14)" was filed on June 9, 1988, and notice of availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582), and June 17, 1988 (53 FR 22727). In addition, an August 1985 environmental assessment titled "Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands" is available from the Service.

Nontoxic Shot Regulations

On April 23, 1990 (at 55 FR 15249), the Service proposed nontoxic shot zones for the 1990–91 waterfowl hunting season. This proposed rule was sent to all affected tribes and to Indian organizations for comment. The final rule on nontoxic shot zones for the 1990–91 hunting season was published in the **Federal Register** on August 16, 1990 (at 55 FR 33626). All of the hunting regulations covered by this final rule are in compliance with the Service's nontoxic shot restrictions.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "That Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" (and shall) "insure that any action authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of (critical) habitat * * *" Consequently, the Service initiated section 7 consultation under the Endangered Species Act for the proposed 1990–91 migratory bird hunting season regulations.

In July 12 and August 2, 1990, biological opinions, the Division of Habitat Conservation advised the Office of Migratory Bird Management of its conclusions that the proposed action will not affect either listed species or critical habitat.

Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act

In the August 8, 1990 **Federal Register** (at 55 FR 32348), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291, and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available on request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 634–Arlington Square, Washington, DC 20240. These regulations contain no collection of information subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Memorandum of Law

The Service published its Memorandum of Law, required by section 4 of Executive Order 12291, in the **Federal Register** on August 12, 1990 (55 FR 33264).

Authorship

The primary author of this final rule is Dr. Keith A. Morehouse, Office of Migratory Bird Management, working under the direction of Thomas J. Dwyer, Chief.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

Accordingly, part 20, subchapter B, chapter I of title 50 of the *Code of Federal Regulations* is amended as follows:

PART 20—[AMENDED]

1. The authority citation for part 20 continues to read as follows:

Authority: Migratory Bird Treaty Act, sec. 3, Pub. L. 65–186; 40 Stat. 755 (16 U.S.C. 701–708h) sec. 3(h), Pub. L. 95–616; 92 Stat. 3112 (16 U.S.C. 712).

(Editorial Note: The following annual hunting regulations provided for by § 20.110 of 50 CFR part 20 will not appear in the Code of Federal Regulations because of their seasonal nature).

2. Section 20.110 is amended by revising paragraphs (c)(1), (g)(8)(vi), and the Special Exception for Geese in (h)(2) to read as follows:

§ 20.110 Seasons, limits and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

* * * * *

(c) *Fort Hall Indian Reservation, Fort Hall, Idaho (Nontribal Members Only).*

(1) *Ducks (including Mergansers). Season Length and Dates:* October 20 through December 17.

* * * * *

(g) *Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin (Tribal Members Only).*

* * * * *

(8) *General Conditions:*

* * * * *

(vi) *Wisconsin Zone.* Tribal members will comply with sec. NR 10.09 (1)(a) (2) and (3), Wis. Adm. Code (shotshells), sec. 10.09, Tribal Model Off-Reservation Cons. Code (Structures), sec. NR 10.12 (1)(g), Wis. Adm. Code (decoys), and sec. 29.27 Wis. Stats. (duck blinds).

* * * * *

(h) *Flathead Indian Reservation, Pablo, Montana (Nontribal Members Only).*

* * * * *

(2) Geese: * * *

Special Exception for Geese: A special early closure for all goose hunting will begin at sunset, November 25, 1990, within the following area: Beginning at Ronan, thence north along U.S. Highway 93 to Polson and Elmo, thence south along said highway to its intersection with State Route 382, thence south along said highway to Perma, thence along the north and west side of Flathead River upstream from Perma to Sloan's Bridge, thence north from Sloan's Bridge along Sloan Road to its intersection with Round Butte Road, thence east along said road to Ronan, the point of beginning. Lands outside those boundaries will close to Canada goose hunting at sunset on December 30, 1990.

* * * * *

Dated: September 24, 1990.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90–23398 Filed 10–2–90; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 900939–0239]

RIN 0648–AC97

Snapper-Grouper Fishery of the South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA establishes a special management zone (SMZ), covering 2 square nautical miles (6.86 km²), around an artificial reef (AR) at Key Biscayne Artificial Reef Site (Site H), which is located in the Exclusive Economic Zone off Dade County, Florida. Within the SMZ, fish trapping, bottom longlining, spearfishing, and harvesting of jewfish are prohibited. The intended effect is to promote orderly use of the fishery resources on and around the AR, to reduce potential user-group conflicts, to maintain the intended socioeconomic benefits of the AR to the maximum extent practicable, and to maintain and promote conservation.

EFFECTIVE DATE: November 2, 1990.

FOR FURTHER INFORMATION CONTACT: Rodney C. Dalton, 813–893–3722.

SUPPLEMENTARY INFORMATION: Snapper-grouper species are managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), prepared by the South Atlantic Fishery Management Council (Council) and its implementing regulations at 50 CFR part 646, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMP provides for designation of ARs as SMZs following Council recommendation to the Director, Southeast Region, NMFS.

An AR creates fishing opportunities that would not otherwise exist and may increase biological production. The cost of constructing and maintaining an AR may be substantial and the intended socioeconomic benefits (e.g., recreational fishing, tournaments, or sport diving) can be reduced or eliminated if highly efficient fishing gear and fishing practices are not restrained. Therefore, the possibility of establishing an SMZ around an AR can act as an incentive for the construction of an AR.

A description of Site H, the background on the proposal for designation of Site H as an SMZ, the management measures proposed for Site H, the procedural requirements of the FMP for designation of an AR as an SMZ, the criteria required by the FMP to be evaluated for designation of an AR as an SMZ, and evaluation of those criteria were contained in the proposed rule (55 FR 28066, July 9, 1990) and are not repeated here.

Comments and Responses

Eleven written comments were received on the proposed rule. Three fish-trap fishermen and one private citizen objected to implementation of the rule. Three recreational fishermen, an editor of an outdoor magazine, the Assistant County Manager for Dade County, Florida, a sportfishing organization, and a sportfishing club commented in support of the proposed rule. Responses to critical comments by category follow.

National Standard 4

All of the commenters objecting to the proposed rule stated that establishment of the SMZ would violate one or more of the national standard 4 requirements that allocations be fair and equitable, reasonably calculated to promote conservation, and designed to avoid any entity acquiring excessive shares of fishing privileges.

Comment: Several commenters stated that trap fishermen have been severely restricted and are now confined to a fishing area of only 28 square nautical miles (96 km²); whereas, recreational fishermen have no geographical limitations. They suggested that the loss of an additional 2.9 percent of their available fishing area due to implementation of the SMZ would not result in a "fair and equitable" allocation as required by national standard 4.

Response: NOAA disagrees. The issue is not the degree of regulation but whether or not the additional regulation is justified. Most of the existing restrictions on fish trapping were imposed by NOAA and Florida as necessary and appropriate management measures. Regarding the proposed action, the national standard guidelines state that an allocation may impose a hardship on one group if it is outweighed by the total benefits received by others. The Council concluded that the loss of 2.9 percent of the available trapping area would be offset by benefits

accruing to the other groups using this popular site. NOAA concurs.

Comment: Four commenters cited the fact that some artificial reef materials had been placed on "live bottom," resulting in damage to the area. They suggested that this violates the national standard 4 requirement that allocations promote conservation.

Response: NOAA disagrees. Neither NOAA nor the Council condones placement of reef materials on "live bottom" areas. However, these materials were placed years prior to consideration of this site as an SMZ. The proposed action that is being evaluated is the establishment of various restrictions within the reef site. This action will reduce fishing mortality at the site somewhat and will contribute to conserving the fishery resources. Further, establishment of the SMZ will contribute to the more rational use of the resource, which according to the national standard guidelines, also promotes conservation.

Comment: Several commenters stated that the recreational harvest of fish from the Site H was estimated to be 330,000—440,000 pounds (150,000—200,000 kilograms) annually, compared to only 5,020 pounds (2,277 kilograms) annually for trap fishermen. They indicated that this imbalance demonstrated that the recreational sector was harvesting an "excessive share" in violation of national standard 4.

Response: NOAA disagrees. The data cited are somewhat misleading, because the recreational estimate included all species of fish, as well as fish that were released; whereas, the estimated trap harvest included only snapper-grouper species that were retained. However, there is little doubt that the recreational sector harvests more of the resource than does the existing trap fishery in that area. This does not necessarily constitute an "excessive share" in the context of national standard 4. The "excessive share" criterion was designed to avoid monopolistic effects, resulting from allocations, on a fishery-wide basis, not to micromanage the distribution of fishing privileges within every small geographic area. This criterion does not guarantee fishing privileges to every sector of a fishery regardless of circumstances. The concept of an "excessive share" must be evaluated in relation to the justification for the allocation. NOAA believes that the Council has presented an acceptable rationale to support the proposed allocation and that the action does not violate the "excessive share" criterion.

National Standard 6

Comment: One commenter suggested that the loss of 2.9 percent of an already severely limited fishing area would violate national standard 6.

Response: National standard 6 requires that management measures account for variations and contingencies in fisheries. It is intended to assure that fishery management plans allow for uncertainties in fisheries and incorporate suitable buffers to ensure conservation. NOAA believes that the issue of loss of fishing area is more pertinent to national standard 4 and has addressed the comment accordingly.

Consumer Interests

Comment: One individual stated that establishment of the SMZ would decrease commercial access to national fishery resources and increase costs to consumers.

Response: The proposed action only restricts use of certain types of fishing gear within a 2-square nautical mile (6.86-km^2) area. The area remains accessible to commercial fishermen using allowable fishing gear. Because of this continued access and the small portion of the overall snapper-grouper fishery that is affected, NOAA does not believe that there will be a measurable impact on consumers.

Prohibition of All Commercial Fishing

Comment: One of the individuals supporting the proposed rule suggested that all commercial fishing be prohibited in the SMZ and that commercial fishermen should build their own ARs.

Response: The procedures in the FMP for establishing SMZs allow for prohibition or restriction of types of gear that are incompatible with the intended uses of the SMZ. Prohibition of fishing by user-group categories is not authorized. The opportunity to establish an SMZ is available to anyone, including commercial fishermen, who possesses a Corps of Engineers permit for an AR site or fish attracting device.

Conflict with National Artificial Reef Plan

Comment: One commenter claimed that establishment of the SMZ would conflict with the National Artificial Reef Plan and referenced the guidelines for AR construction in that plan.

Response: The construction of the AR occurred years prior to the request for an SMZ and is not the focus of this regulatory action. The gear restrictions proposed within the SMZ are intended to reduce fishing mortality and potential user conflicts. The proposed action is not in conflict with the tenets of the National Artificial Reef Plan.

Legal Opinions

Comment: Several commenters questioned the legality of approving Site H as an SMZ based upon an opinion offered by a NOAA lawyer in 1986 that such action was not defensible.

Response: The key issue then and now remains whether the designation represents a fair and equitable balancing of the various interests of different users of the resources in the area. Since 1986, surveys documenting the recreational usage of the area have become available, and a prohibition of all spearfishing is now proposed. These factors must now be considered in weighing whether the benefits to be derived from designation will outweigh, on the whole, the detriments and costs to certain users. Unlike recreational user information, commercial landings data and trap location information have not improved since 1986. In the absence of landings data and trap location information specific to Site H supplied by fishermen, such information can only be approximated by extrapolating from trap landings data from the vicinity. That process suggests Site H is a small percentage of the area presently fished by the fish trappers and that only approximately 3 percent of total trap landings are attributable to Site H. Furthermore, information suggests that the larger impacts will be on spearfishermen who catch approximately four to nine times the amount of fish caught by trap fishermen from Site H. Accordingly, the balancing of these factors does not reveal potential inconsistencies with the national standards of the Magnuson Act.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), determined that this rule is necessary for the conservation and management of the snapper-grouper fishery and that it is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291. This rule is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with

foreign-based enterprises in domestic or export markets. The Council prepared a regulatory impact review (RIR) for this action. A summary of the economic effects was included in the proposed rule and is not repeated here.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. The basis for this determination was included in the proposed rule and is not repeated here.

These measures are part of a Federal action for which an environmental impact statement (EIS) was prepared. The final EIS for the FMP was filed with the Environmental Protection Agency and the notice of availability was published on August 19, 1983 (48 FR 37702).

The Council determined that this rule does not directly affect the coastal zone of any state with an approved coastal zone management program. A letter was sent to Florida, the only state involved, advising of this determination.

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 646

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 27, 1990.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 646 is amended as follows:

PART 646—SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

1. The authority citation for part 646 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 646.24, a new paragraph (a)(22) is added and paragraph (c)(3) is revised to read as follows:

§ 646.24 Area limitations.

(a) * * *

(22) *Key Biscayne/Artificial Reef—H:* The area is bounded on the north by 25°42.82'N. latitude; on the south by 25°41.32'N. latitude; on the east by 80°04.22'W. longtitude; and on the west by 80°05.53'W. longitude.

* * * * *

(c) * * *

(3) In the SMZs specified in paragraphs (a)(20) and (a)(22) of this section, the use of spearfishing gear is prohibited.

[FR Doc. 90-23382 Filed 10-2-90; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 192
Wednesday, October 3, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ELECTION COMMISSION

[Notice 1990-14]

11 CFR Parts 109 and 114

Corporate and Labor Organization Expenditures

AGENCY: Federal Election Commission.

ACTION: Additional request for comments.

SUMMARY: The Federal Election Commission is seeking further comments to help determine what changes in its regulations are warranted following the Supreme Court opinion in *Austin* v. *Michigan Chamber of Commerce*, ___ U.S. ___, 110 S. Ct. 1391 (1990) ("*Austin*"), and other judicial decisions regarding section 441b of the Federal Election Campaign Act. 2 U.S.C. 441b. The rulemaking was initiated to address issues raised in *Federal Election Commission* v. *Massachusetts Citizens for Life*, 479 U.S. 238 (1986) ("*MCFL*").

DATES: Comments must be received on or before November 2, 1990.

ADDRESSES: Comments must be in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 376-5690 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: Section 441b of the Federal Election Campaign Act (2 U.S.C. 431 *et seq.*) bars corporations from making contributions or expenditures in connection with any election to a federal office. In 1986 the Supreme Court ruled that section 441b's ban on independent expenditures by a non-profit corporation formed to promote "pro-life" causes was a violation of free speech under the First Amendment. *Federal Election Commission* v. *Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986) ("*MCFL*"). When applied to a small, non-profit entity or group which lacked formal organization, the Court found that the requirements of section 441b created a disincentive for such organizations to engage in political speech by imposing additional regulations on them. 479 U.S. at 254. Further, the Court delineated three essential features for determining which nonprofit corporations would be exempt from section 441b's restriction on corporate spending.

In *MCFL* the Court also began to focus on what qualifies as an expenditure under section 441b. The Court indicated that it would consider any communication which expressly advocates the election or defeat of a candidate an expenditure subject to section 441b's prohibition on corporate spending.

A. The Commission's MCFL Rulemaking

The National Right to Work Committee (NRWC) filed a petition for rulemaking with the Federal Election Commission on February 24, 1987. The petition requested that the Commission initiate a rulemaking to revise its regulations to incorporate the "express advocacy" test set forth in *MCFL* as the standard for judging expenditures, specifically with reference to 11 CFR 114.3 and 114.4.

In response to the NRWC petition, the Commission published a Notice of Availability on May 4, 1987 to invite public comment on the petition. *See*, 52 FR 16275. Subsequently, on January 7, 1988, the Commission published an Advance Notice of Proposed Rulemaking which not only sought comment on the issue raised by NRWC, but also broadened the scope of the Commission's inquiry to include the wide range of questions raised by the *MCFL* decision. *See*, 53 FR 416. The Commission also held a hearing on November 16, 1988 at which 2 witnesses testified concerning these issues.

The Federal Election Commission is continuing to review its regulations in light of the *MCFL* decision. On March 27, 1990, in *Austin* v. *Michigan Chamber of Commerce*, ___ U.S. ___, 110 S. Ct. 1391 (1990), the Supreme Court again emphasized the limited nature of the *MCFL* exception through its interpretation of a Michigan statute containing prohibitions very similar to section 441b. Since *Austin* further expounded on the characteristics of an MCFL-type corporation, the Commission now seeks additional comments on these issues. These comments will aid the Commission in further consideration of regulations in light of the most recent judicial decisions.

B. MCFL Issues Discussed in Austin

Section 54(1) of the Michigan Campaign Finance Act prohibits corporations from, among other things, making independent expenditures in connection with state candidate elections. Such expenditures are only allowable if they are from segregated funds used for political purposes. The Michigan State Chamber of Commerce (Chamber) sought injunctive relief against section 54(1)'s enforcement, arguing the restrictions violated their constitutional right to free speech. The Court examined the Chamber under the three essential features described in *MCFL* and found that the Chamber did not qualify for exempt status.

The first of these essential features is that the corporation must be formed for the express purpose of promoting political ideas, and cannot engage in business activities. The Chamber was not formed expressly to promote political ideas. The purposes of the corporation, as set forth in the bylaws, included providing services to the membership involving business and economic issues. The Chamber conducted a wide variety of activities of a non-political nature, which included but were not limited to:

(1) Compiling and disseminating information relating to social, civic, and economic conditions;

(2) Holding seminars to educate its members;

(3) Promoting ethical business practices;

(4) Holding seminars and conventions and issuing publications which focused on business and economic issues;

(5) Litigation activities on behalf of the business community;

(6) Sponsoring the Michigan New Products Awards Competition; and

(7) Sponsoring a program to increase awareness of investment opportunities in the Caribbean Basin.

"The Chamber's non-political activities therefore suffice to distinguish it from *MCFL* in the context of this characteristic." 110 S. Ct. at 1399.

The Commission welcomes comments and suggestions which might be raised

by the Court's interpretation of this first feature. It appears from the Court's decision that a corporation may be considered to be engaging in business activities, even if its main purpose is not profit making. In *Austin*, the Court pointed to the Chamber's educational activities as among those which fell outside of the requirements. *Id.*, at 1399. Comments are welcome on how this requirement might be developed more fully in the regulations. In particular, what other activities might qualify as business activities, thus placing a corporation outside of the Court's exemption?

The second *MCFL* feature is that the corporation have no shareholders or other persons affiliated so as to have a claim on its assets and earnings. "This ensures that persons connected with the organization will have no economic disincentive for disassociating with it if they disagree with its political activity." *Id.*, at 1399, quoting 479 U.S. at 264. The Chamber failed to meet this requirement. The Court pointed out that its members might be reluctant to withdraw because of the loss of economic benefit received from the Chamber. This economic benefit stemmed from opportunities to establish contacts with other members of the business community, and benefits derived from the Chamber's non-political programs.

The Commission seeks comments on issues raised by this point. In particular, what kinds of economic benefit might a person derive from a non-profit organization so as to create a disincentive to disassociation? For example, some organizations provide their members with credit cards or insurance at favorable rates. Might the loss of this favorable rate qualify as a disincentive to disassociation sufficient to place the non-profit corporation outside of the Court's exemption?

The final characteristic on which the *MCFL* Court relied was that MCFL was not established by, and had a policy against accepting contributions from, business corporations. The Court emphasized that there must be total "independence from the influence of business corporations." *Id.*, at 1400. This feature serves to remove the potential for a non-profit organization to act as a conduit for a corporations' money in the "political marketplace." *Id.*, quoting 479 U.S. at 264. The fact that the Chamber had no policy against accepting contributions from business corporations placed them outside the Court's exception. Comments on this point are welcome.

C. Other Recent Court Cases

On June 29, 1990, the District Court for the District of Maine addressed several aspects of the *MCFL* and *Austin* decisions, including the effect of these opinions on the validity of the Commission's voter guide regulations at 11 CFR 114.4(b)(5)(i). *See, Faucher* v. *Federal Election Commission*, No. 90-0112-B, slip op. (D. Me. June 29, 1990) ("*Faucher*"). The court determined that the Maine Right to Life Committee did not qualify for the *MCFL* exception because the committee lacked a policy against receiving contributions from corporations. However, the court employed an express advocacy test in evaluating the Commission's voter guide regulation. The court concluded that "the regulation, as currently promulgated with its focus on issue advocacy, is contrary to the statute as the United States Supreme Court has interpreted it and, therefore, beyond the power of the FEC." *Id.*, at 10. The Commission has appealed the portion of the opinion addressing express advocacy and the voter guide rules.

A similar issue regarding the application of an express advocacy standard under section 441b was presented in *Federal Election Commission* v. *National Organization of Women*, 713 F. Supp. 428 (D.D.C. 1989) ("*NOW*"). In this case, another district court applied an express advocacy standard to determine whether section 441b permitted an incorporated membership organization to use general treasury funds for solicitation letters directed to the general public. The court in *NOW* concluded that the corporation had not violated section 441b because the letters in question did not go beyond issue discussion to express electoral advocacy. The Commission has also filed an appeal in this case.

Although subsequent judicial decisions in the *Faucher* and *NOW* cases, as well as other litigation, may affect the resolution of these issues, commenters may wish to address the issues raised by these decisions.

Dated: September 27, 1990.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 90-23352 Filed 10-2-90; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 90-AEA-08]

Proposed Alteration of Control Zone and Transition Area; Lewisburg, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration (FAA) is proposing to revise the Control Zone and the 700 foot Transition Area at Lewisburg, WV, established for the Greenbrier Valley Airport, Lewisburg, WV, due to the reorganization of air traffic control procedures in the area. Additionally, the geographic coordinates of the airport are being updated in each description to reflect the actual location of the airport. The intent of this proposed action is to reduce that amount of controlled airspace to that which is deemed necessary by the FAA to contain aircraft operating under instrument flight rules from the surface to the base of adjacent controlled airspace.

DATES: Comments must be received on or before November 5, 1990.

ADDRESSES: Send comments on the rule in triplicate to:

Edward R. Trudeau, Manager, System Management Branch, AEA-530, Docket No. 90-AEA-08, FAA Eastern Region, Federal Building No. 111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430.

An informal docket may also be examined during normal business hours in the System Management Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building # 111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building # 111, John F. Kennedy International Airport, Jamaica, NY 11430; telephone: (718) 917-0857.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90–AEA–08". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA–7, Federal Aviation Administration, Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering amendments to §§ 71.171 and 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the descriptions of the Lewisburg, WV, Control Zone and 700 foot Transition Area established for the Greenbrier Valley Airport, Lewisburg, WV, due to the reorganization of air traffic control procedures in the area. Sections 71.171 and 71.181 of part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6F dated January 2, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation Safety, Control zones, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Lewisburg, WV [Revised]

Within a 5-mile radius of the center of the Greenbrier Valley Airport, Lewisburg, WV (lat. 37°51'30" N., long. 80°23'59" W.); within 4 miles either side of a 218°(T) 224°(M) bearing from the BUSHI LOM, extending from a point 8.5 miles southwest of the LOM to the 5-mile radius area. This Control Zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective times will thereafter be published in the Airport/Facility Directory.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Lewisburg, WV [Revised]

Within a 9.5-mile radius of the center of the Greenbrier Valley Airport, Lewisburg, WV (lat. 37°51'30" N., long. 80°23'59" W.); within 5 miles either side of a 218°(T) 224°(M) bearing from the BUSHI LOM, extending from the 9.5-mile radius area to 11.5 miles southwest of the LOM.

Issued in Jamaica, New York, on September 13, 1990.

Gary W. Tucker,

Manager, Air Traffic Division.

[FR Doc. 90–23225 Filed 10–2–90; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R–90–1492; FR–2708–P–01]

RIN 2502–AE83

Amendments to the Form 2530 Review Process

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: Generally, under 24 CFR 200.210–.430, prospective principals in HUD's multifamily housing programs are subject to a review of their previous participation in HUD and similar programs in order to determine whether their participation should be approved. Approval is granted unless one of the identified standards for disapproval is met and a determination is made that the principal should not be approved, or a decision is made to withhold approval or grant conditional approval.

Under the Department's current regulations, a principal who has defaulted on previous mortgages cannot be disapproved on that basis unless the Multifamily Participation Review Committee (MPRC) finds that the mortgage default is attributable, or legally imputable, to the fault or neglect of the principal. The purpose of this rule is to give the MPRC more discretion in determining whether to disapprove participation in circumstances where a principal has previously been involved in mortgage defaults. The rule also proposes to make certain technical amendments to clarify existing policies.

COMMENT DUE DATE: December 3, 1990.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street,

SW, Washington, DC 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying from 7:30 a.m. to 5:30 p.m. weekdays in the office of the Rules Docket Clerk at the above address. As a convenience to commenters, the Rules Docket Clerk will accept brief public comments transmitted by facsimile (FAX) machine. The telephone number of the FAX receiver is (202) 708–4337. (This is not a toll-free number.) Only public comments of six or fewer total pages will be accepted via FAX transmittal. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk at (202) 708–2084.

FOR FURTHER INFORMATION CONTACT: Bruce J. Weichmann, Director, Participation Compliance Division, Office of Management, room 9114, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708–6766. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 708–9300. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Since 1966, the Department has utilized a procedure to consider a person's record of pass performance in determining whether the Department should allow participation in an additional project. The procedure requires a principal's certification to his or her prior participation in multifamily projects, and the disclosure of other information which could affect the approval for the proposed participation. (The certification is submitted on HUD Form 2530, and in the housing industry the certification/approval process is commonly referred to as the "2530 process" or "2530 review process".)

Approval through the 2530 review process is required for participation in programs insuring multifamily mortgages under the National Housing Act; sale of projects owned or with a mortgage held by HUD (including all-cash sales); finance of projects pursuant to section 202 of the Housing Act of 1959; and participation in public housing projects as well as certain housing projects of HUD's housing program in which at least 20% of the units receive a subsidy from HUD. The 2530 certificate must be submitted by the owners of a project and by individuals and entities participating in the development, ownership, or management of projects covered by the 2530 review process.

The 2530 review process involves the submission of a certification by the principal, a review of that certification and other information about the principal by HUD, and approval, conditional approval, or disapproval of the proposed participation. Approval is granted unless one or more of the specified standards for disapproval are met.

This proposed rule would:

(1) Clarify, by amendment to § 200.213(c)(3), that the only Section 8 programs exempt from the 2530 review process are the tenant-based programs described in 24 CFR part 882, subparts A, B, C & F, and the housing voucher program described in 24 part 887;

(2) Clarify, by amendment to § 200.213(e), the applicability of the 2530 review process to all sales, including "all cash" sales;

(3) Add nursing home administrators and operators to the definition of "principal" in § 200.215(e);

(4) Define "risk" to include consideration of the financial stability of the principal and the capacity of the principal to meet HUD's procedures under new § 200.215(h). (Participants in all-cash sales of projects would be approved only if approval would further the objectives of the Department);

(5) Delete certain superfluous language in § 200.230 (c) and revise disapproval standards under § 200.230 (c)(1) to allow HUD more discretion for disapproval in circumstances where there are mortgage defaults, assignments or foreclosures;

(6) Add a new paragraph (f) to § 200.230 to include submission of a false or materially incomplete 2530 certificate as a basis for disapproval, and redesignate existing paragraph (f) as paragraph (g); and

(7) Revise § 200.243 (a) to limit hearing rights to the submission of written briefs or documentary evidence, where disapproval is based on suspension or debarment.

Other Matters

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individuals, industries, Federal, State or local government, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule would simply clarify existing policies and procedures involved in the 2530 review process.

This rule is listed as sequence number 1149, under the Office of Housing, in the Department's Semiannual Agenda of Regulations published on April 23, 1990 (55 FR 16226, 16241), under Executive Order 12291 and the Regulatory Flexibility Act.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50 that implement section 102 (2)(C) of the National Environmental Policy Act of 1969. (42 U.S.C. 4332). The finding of no significant impact is available for public inspection and copying Monday through Friday, 7:30 a.m. until 5:30 p.m. in the office of the Rules Docket Clerk, Ofice of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

Executive Order 12612, federalism. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this proposed rule do not have Federalism implications and, thus, are not subject to review under the Order. The rule is limited to reviewing continuing participation in the Department's programs. No programmatic or policy changes result from its promulgation which would affect existing relationships between Federal and State and local governments.

Executive Order 12606, the family. The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this rule does not have a potential significant impact on family formation, maintenance, and general well-being, and, thus is not subject to review under the Order. No significant change in existing HUD policies or programs will result from promulgation of this rule, as those policies and programs related to family concerns.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment

opportunity, Fair housing, Home improvement, Housing standards, Lead poisoning, Loan programs: housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 200 would be amended as follows:

PART 200—INTRODUCTION

1. The authority citation for 24 CFR part 200 would continue to read as follows:

Authority: Titles I and II, National Housing Act (12 U.S.C. 1701–1715z–18); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In § 200.213, paragraph (c)(3) and paragraph (e) would be revised to read as follow:

§200.213 Applicability of procedures.

* * * * *

(c) * * *

(3) Housing assistance payments under section 8 of the United States Housing Act of 1937 (with the exception of the programs described in 24 CFR part 882, subparts A, B, C & F, and in 24 CFR part 887, which are tenant-based programs);

* * * * *

(e) Sales of projects by the Secretary, including "all cash" sales.

3. In § 200.215, paragraph (e)(1) would be revised and a new paragaph (h) would be added, to read as follows:

§ 200.215 Definitions.

* * * * *

(e) *Principal.* (1) An individual, joint venture, partnership, corporation, trust, nonprofit association, or any other public or private entity proposing to participate, or participating, in a project as sponsor, owner, prime contractor, Turnkey Developer, management agent, nursing home administration or operator packager, or consultant; and architects and attorneys who have any interest in the project other than an arms-lengths fee arrangement for professional services.

* * * * *

(h) *Risk.* In order to determine whether a participant's participation in a project would constitute an unacceptable risk, the following factors must be considered: financial stability; previous performance in accordance with HUD statues, regulations, and program requirements; general business practices; or other factors which indicate to the MPRC that the principal could not be expected to operate the project in a manner consistent with furthering the Department's purpose of supporting and providing decent, safe and affordable housing for the public.

4. In § 200.230, paragraphs (c) and (c)(1) would be revised, and current paragraph (f) would be redesignated as paragraph (g) and a new paragraph (f) would be added, to read as follows:

§ 200.230 Standards for disapproval.

* * * * *

(c) Unless the Review Committee finds mitigating or extenuating circumstances that enable it to make a risk determination for approval, any of the following occurrences attributable or legally imputable to a principal may be the basis for disapproval, whether or not the principal was actively involved in the project:

(1) Mortgage defaults, assignments or foreclosures, unless the Review Committee determines that the default, assignment or foreclosure was caused by circumstances beyond the principal's control;

* * * * *

(f) Submission of a false or materially incomplete form 2530 certification application.

* * * * *

5. In § 200.243, paragraph (a) would be revised to read as follows:

§ 200.243 Hearing rules—How and when to apply.

(a) A principal who has been disapproved, conditionally approved, or who has had approval withheld by the Review Committee, either initially or after reconsideration, or who is disapproved by the Participation Control Officer, may request a hearing before a Hearing Officer. The hearing will be conducted in accordance with the provisions of 24 CFR part 26, except as modified by this section. Requests for hearing must be made within 30 days from the date of receipt of notice of the adverse determination.

(1) Except as provided in paragraphs (a) (2) and (3) of this section, a principal may request an oral hearing before a hearing officer.

(2) Where a disapproval is based solely on a suspension or debarment that has been previously adjudicated, the hearing shall be limited to the opportunity to submit documentary evidence and written briefs for consideration by a hearing officer.

(3) Where a disapproval is based on a suspension and an appeal is pending, the hearing shall be stayed pending the outcome of the suspension, unless the parties and the hearing officer agree that the matter should be consolidated with the suspension for hearing.

* * * * *

Dated: August 23, 1990.

C. Austin Fitts,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 90–23329 Filed 10–2–90; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IA–83–90]

RIN 1545–AP08

Disclosure of Tax Return Information for Purposes of Quality of Peer Reviews

AGENCY: Internal Revenue Service, Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Internal Revenue Service is soliciting written comments from the public on issues to be addressed in proposed regulations under section 7216(b)(3) of the Internal Revenue Code of 1986. Section 7216(b)(3) provides for the disclosure or use of tax return information for "quality or peer reviews".

DATE: Deliver or mail written comments by October 31, 1990.

ADDRESS: Send comments to Internal Revenue Service, Attn: CC:CORP:T:R (IA–83–90), room 4429, 1111 Constitution Ave., NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Lisa Byun, Attorney-Advisor, Office of the Assistant Chief Counsel (Income Tax and Accounting), at 202–566–5985 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The Omnibus Budget Reconciliation Act of 1989 amended Code section 7216(b)(3) to authorize and direct the Treasury to issue regulations permitting the disclosure or use of tax return information for "quality or peer reviews," subject to conditions prescribed by the regulations. A regulations project has been opened for this purpose.

The Service requests comments from the public as to this new provision. For example: (1) Should the permissible disclosure or use be limited to voluntary quality or peer reviews, or should it be extended to mandatory quality or peer reviews; (2) Should the disclosure or use for mandatory quality or peer review be limited only to reviews on behalf of professional organizations and/or their

members, or should it be extended to tax return preparation franchise operations where the agreement provides that the franchisor has the right to perform quality reviews; (3) Should the review include all matters within the scope of operating a tax practice, or should it be limited to the rendering of tax advice and the preparation of tax return; (4) Who should be permitted to perform the quality or peer reviews (e.g., all tax return preparers as defined in § 301.7216–1(b)(2) or only CPAs, attorneys, and enrolled agents); (5) Should secretaries and other support personnel of the reviewer(s) be allowed to provide assistance in conducting the quality or peer reviews; and (6) Are the sanctions provided by Code sections 6713 and 7216 adequate, or should other safeguards be considered in order to protect the taxpayer's privacy rights.

E. Leon Kennedy,

Deputy Assistant Chief Counsel (Income Tax and Accounting).

[FR Doc. 90–23356 Filed 9–28–90; 11:02 am]

BILLING CODE 4830–01–M

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26 CFR Part 1

[IA–258–84]

RIN 1545–AH32

Economic Performance Requirement; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Change of location for public hearing on proposed regulations.

SUMMARY: This document provides notice of a change of location for a public hearing on proposed regulations relating to the requirement that economic performance occur in order for an amount to be incurred by a taxpayer using an accrual method of accounting.

DATES: The public hearing will be held on October 22, 1990, beginning at 10 a.m. Outlines of oral comments must be received by Friday, October 5, 1990.

ADDRESSES: The public hearing will be held in the Old Post Office Building, room M09, 1100 Pennsylvania Avenue, NW., Washington, DC (use 12th street entrance). Requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R [IA–258–84], room 4429, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Felicia A. Daniels of the Regulations Unit, Assistant Chief Counsel (Corporate), room 4429, 1111 Constitution Avenue NW., Washington, DC 20224, telephone 202–566–3935, (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice appearing in the **Federal Register** for Wednesday, July 18, 1990 (55 FR 29224), announced, among other things, that a public hearing relating to economic performance requirements would be held on October 22, 1990, beginning at 10 a.m. in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. The proposed regulations were published in the **Federal Register** for Thursday, June 7, 1990 (55 FR 23235).

The location for the public hearing has changed, and will be held in the Old Post Office Building, room M09, 1100 Pennsylvania Avenue NW., Washington, DC (use 12th street entrance).

In all other respects the details regarding the hearing will remain the same.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 90–23303 Filed 10–2–90; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Part 1

[PS–7–90]

RIN 1545–AO42

Nuclear Decommissioning Fund Qualification Requirements

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the qualification requirements of nuclear decommissioning reserve funds that combine their assets for investment purposes. Section 468A provides special rules pursuant to which a taxpayer is allowed a deduction for the tax year in which the taxpayer makes a contribution to a Nuclear Decommissioning Reserve Fund ("Fund"), notwithstanding the fact that economic performance with respect to the nuclear decommissioning costs will occur in a later tax year.

DATES: The public hearing will be held on Thursday, December 20, 1990, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Thursday, December 6, 1990.

ADDRESSES: The public hearing will be held in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R (PS–7–90), room 4429, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Bob Boyer of the Regulations Unit, Assistant Chief Counsel (Corporate), 202–566–3935 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations that contain proposed amendments to the Income Tax Regulations (26 CFR part 1) to provide rules under section 468A of the Internal Revenue Code of 1986 (55 FR 26460, June 28, 1990). Section 468A, relating to nuclear decommissioning costs, was added to the Code by section 91(c) of the Tax Reform Act of 1984 (Pub. L. 98–369, 98 Stat. 609).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Thursday, December 6, 1990, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Cynthia E. Grigsby,

Alternate Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 90–23357 Filed 10–2–90; 8:45 am]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL-014; FRL-3850-1]

Alabama: Ozone Plan Revisions for Jefferson County; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On March 3, 1978 (43 FR 8962), EPA designated Jefferson County, Alabama, as nonattainment for ozone. The State submitted State Implementation Plan (SIP) revisions designed to achieve the ozone standard; however, this control strategy did not result in attainment of the National Ambient Air Quality Standards (NAAQS) by December 31, 1982. Consequently, on February 24, 1984, EPA notified the Governor of Alabama that the SIP was substantially inadequate to achieve the NAAQS for ozone in Jefferson County and called upon the State to revise its SIP. The Alabama Department of Environmental Management (ADEM) submitted a final SIP revision to EPA on November 21, 1985. However, delays due to the determination that the Jefferson County regulations were not yet enforceable by the State prevented prompt review of the SIP submittal by EPA. On April 8, 1987, the Alabama Environmental Management Commission adopted the Jefferson County VOC regulations. On April 20, 1987, ADEM submitted the completed package to EPA for approval. This SIP submittal from ADEM is a comprehensive package which includes all the regulations within chapter 8—Control of Volatile Organic Compounds, and a control strategy demonstrating attainment for ozone NAAQS by December 31, 1987. This submittal requires approval or disapproval by EPA of each regulation within chapter 8 and of the control strategy demonstration. Since the Jefferson County area did not attain the standard, the control strategy is inadequate. Upon review of the submittal, several regulations were identified as being deficient and therefore cannot be approved at this time. ADEM was notified of the identified deficiencies and asked to withdraw the regulations that were identified as being deficient. ADEM requested that EPA disapprove the regulations containing deficiencies.

Therefore, EPA, is at this time proposing to disapprove the control strategy and the regulations within chapter 8—Control of Volatile Organic Compound Emissions that do not satisfactorily meet the Control Techniques Guidelines (CTG)/ Reasonably Available Control Technology (RACT) requirements and subsequent regulations and policy for nonattainment areas. The regulations that have been identified as being deficient and are being proposed for disapproval, are listed in the Supplemental Information section of this notice. The public is invited to submit written comments on the proposed actions.

DATES: To be considered, comments must be submitted by November 2, 1990.

ADDRESSES: Written comments should be addressed to Diane T. Altsman of EPA Region IV's Air Programs Branch (see EPA Region IV address below). Copies of the materials submitted by Alabama may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Air Division, Alabama Department of Environmental Management, 1751 Congressman William L. Dickinson Drive, Montgomery, Alabama 36130.

Jefferson County Department of Health, 1400 Sixth Avenue, South, P.O. Box 2646, Birmingham, Alabama 35202.

FOR FURTHER INFORMATION CONTACT: Diane T. Altsman, Air Programs Branch, EPA Region IV, at the above address and telephone number 404/347-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962), EPA designated Jefferson County, Alabama, as nonattainment for ozone. The State was subsequently required to revise its ozone State Implementation Plan (SIP) for Jefferson County. Alabama officially submitted the SIP revisions to EPA on April 19, 1979. On June 3, 1980 (43 FR 37430), EPA announced final approval of the Alabama ozone SIP. The State had calculated that an 18.2% reduction in hydrocarbon emissions was needed to achieve the ozone standard in Jefferson County by December 31, 1982.

However, the control strategy for ozone referenced above did not result in attainment of the NAAQS for ozone by December 31, 1982. Consequently, on February 24, 1984, EPA notified the Governor of Alabama that the SIP was substantially inadequate to achieve the NAAQS for ozone in Jefferson County and called upon the State to revise the SIP. ADEM submitted the final SIP revision to EPA on November 21, 1985.

During EPA's review of the submittal, it was determined that the revised Jefferson County VOC regulations were not enforceable by the State. Therefore, on August 26, 1986, ADEM was advised that the SIP revision was not approvable. On April 15, 1987, the Alabama Environmental Management Commission signed a resolution adopting the Jefferson County rules as a part of the State VOC regulations and on April 20, 1987, ADEM resubmitted the SIP revision to EPA. The submittal included numerous individual RACT regulations as well as a demonstration that Jefferson County would attain the ozone standard by December 31, 1987. However, current data indicate that the area has not yet attained the standard. Thus, EPA cannot now approve the attainment demonstration. In addition, certain of the RACT regulations do not meet all applicable criteria.

Today we are proposing to disapprove the attainment demonstration and the following regulations within Chapter 8—Control of Volatile Organic Compound Emissions that do not meet the CTG/ RACT requirements and subsequent regulations and policy for nonattainment areas. For details on the deficiencies identified within each regulation, please refer to the Technical Support Document available for inspection at the EPA Regional Office address listed in this notice. *Applicability*—8.1.1(b)(2), 8.1.1(c), 8.1.1(d); *Loading and Storage of VOC*—8.3.1, 8.3.2(b)(3); *Fixed-Roof Petroleum Liquid Storage Vessels*—8.4.4(b); *Bulk Gasoline Plants*—8.5.3(a); *Bulk Gasoline Terminals*—8.6.3(a)(3), 8.6.6; *Gasoline Dispensing Facilities—Stage I Control*)—8.7.4(c); *Petroleum Refinery Sources*—8.8.2, 8.8.4, 8.8.5(a); *Automobile and Light-Duty Truck Manufacturing*—8.11.5; *Paper Coating*—8.11.6(b); *Magnet Wire Coating*—8.11.8(b); *Compliance Methods*—8.11.9(b), 8.11.9(3); *Solvent Metal Cleaning*—8.12.4(c)(3), 8.12.5(c)(5), 8.12.6(b)(3); *Cutback Asphalt*—8.13.2(a); *Petition For Alternative Controls*—8.14; *Test Methods and Procedures*—8.16; *Manufacture of Pneumatic Rubber Tires*—8.17.3 (a) and (d); *Perchloroethylene Dry Cleaning Systems*—8.19.3; *Leaks From Petroleum Refinery Equipment*—8.21.11, 8.21.12, 8.21.13; *Petroleum Liquid Storage In External Floating Roof Tanks*—8.23.1(h), 8.23.4(b)(3), 8.23.5(c); *Aerospace Assembly and Component Coatings Operation*—8.25; *Gasoline Dispensing Facilities*—8.30.1(a).

The submitted regulations were reviewed based on EPA's CTG documents for various VOC source categories. ADEM was notified of the

deficient regulations within the SIP and of the need for their correction. EPA is proposing disapproval of the deficient regulations in today's notice. Although § 8.16—Test Methods and Procedures, is among the Jefferson County regulations being disapproved in today's notice, the Alabama Department of Environmental Management regulations address Test Methods and Procedures and are applicable and enforceable in Jefferson County. Therefore, disapproval of § 8.16 will not hinder any enforcement capabilities in Jefferson County. The revisions that satisfactorily meet the CTG/RACT requirements and subsequent regulations and policy are being proposed for approval in a separate **Federal Register** notice in order not to delay or deter compliance enforcement issues.

Proposed Action

EPA is proposing to disapprove the Jefferson County VOC regulations listed above and the control strategy.

The public is invited to participate in this rulemaking by submitting written comments on these proposed actions.

Under 5 U.S.C. 605(b), I certify that this disapproval action will not have a significant economic impact on a substantial number of small entities because its purpose is to provide the State the basis for correcting its SIP.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Hydrocarbons, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7642.

Dated: September 27, 1990.

[FR Doc. 90–23389 Filed 10–2–90; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Parts 144 Through 148

[FRL–3629–4]

Underground Injection Control Programs; Puerto Rico

AGENCY: Environmental Protection Agency.

ACTION: Notice of public hearing.

SUMMARY: The Commonwealth of Puerto Rico has applied to the United States Environmental Protection Agency (EPA) under the provisions of the Safe Drinking Water Act, as amended (the Act) for approval of its Underground Injection Control (UIC) program.

This notice is being given to inform the public that EPA has received a complete UIC program submission from the Commonwealth of Puerto Rico and has scheduled a public hearing on it. If, after the conclusion of the proceedings summarized below, the Administrator of EPA makes a final decision to approve the Commonwealth's UIC program, granting primary UIC enforcement responsibility (primacy) to Puerto Rico, Puerto Rico's Environmental Quality Board (EQB) will be required to administer the program consistent with all the UIC regulations established by EPA.

DATES: The EPA will conduct a Public Hearing on the above-identified UIC program application at EPA's Caribbean Field Office (CFO), at the address below on November 13, 1990, from 10 a.m. until all interested persons have been heard.

Interested persons may submit comments on the program application to the Chief of the D/GWP Branch or the Director of CFO at the below addresses no later than November 6, 1990.

ADDRESSES: The hearing will be held at: U.S. Environmental Protection Agency, Region II—Caribbean Field Office (CFO), Office 2A, Podiatry Center Building, 1413 Fernandez Juncos Avenue, Santurce, Puerto Rico 00907.

Please send written comments and requests to testify to Pedro A. Gelabert, Director, at the address above, or Walter E. Andrews, Chief, Drinking/Ground Water Protection Branch (D/GWP), U.S. Environmental Protection Agency, 26 Federal Plaza, Room 845, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: Please direct calls to Robert Ferri at (212) 264–1800 or Luis Campos-Bistani, Chief, Water Quality Section at [809] 729–6920.

SUPPLEMENTARY INFORMATION: The purpose of this public hearing is to receive comments from interested persons and the public on the UIC program application submitted to EPA by the Commonwealth. EPA reserves the right to cancel the hearing should there be no significant public interest. Interested parties will be notified if the hearing is canceled.

A tape recording or written transcript of the hearing shall be made available to the public at EPA's CFO and at EPA's Region II Drinking/Ground Water Protection Branch (D/GWP) as part of the administrative record described below. All comments presented at the public hearing shall be considered by EPA in making its final decision.

The program application prepared by EQB is part of the administrative record. The administrative record is on file at EPA's CFO and at EPA's Region II D/GWP Branch at the below addresses and may be inspected and copied at a charge of $.15 per copy sheet at any time between 8:30 a.m. and 4 p.m., Monday through Friday. A copy of the program application and other available information may be obtained by writing to the Chief of the Region II D/GWP Branch at the above address.

All persons who believe that approving Puerto Rico's UIC program is not appropriate have an obligation to raise all reasonably ascertainable issues and submit all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period. All supporting material must be submitted in full unless it is already included in the administrative record. If the Water Management Division Director or the Director of CFO finds that comments, submitted in a timely manner, appear to raise substantial new questions, either may extend the public comment period.

Any person who submits timely written or oral comments or requests notice of the final approval decision shall receive notice of the Administrator's final decision. Within 30 days of service of such notice, any interested person may petition the Administrator to review any condition of the Puerto Rico UIC program approval decision.

Dated: September 24, 1990.

Paul Molinari,

Acting Director, Water Management Division.

[FR Doc. 90–23328 Filed 10–2–90; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 73–20; Notice 14]

RIN 2127–AC58

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Fuel System Integrity; Termination of Rulemaking Proceeding

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Termination of rulemaking proceeding.

SUMMARY: The purpose of this notice is to announce the termination of a rulemaking proceeding to amend Standard No. 301, *Fuel System Integrity*,

to set performance requirements that would ensure that the fuel system as a whole, or an appropriate part thereof (i.e., the fuel tank), is capable of performing in a manner equivalent to fuel systems incorporating high density polyethylene plastic fuel tanks with regard to: (1) Resisting hydrostatic rupture; (2) avoiding a "flame-throwing characteristic" when the system is heated externally; and, (3) resisting puncture. The agency issued an Advance Notice of Proposed Rulemaking in March of 1989 concerning the possibility of such an amendment. After considering the comments to that notice and conducting further research and analysis, the agency has determined that there is not sufficient evidence of a safety need to warrant further rulemaking at this time.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Cohen NRM–12, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Steet, SW., Washington, DC, 20590, Telephone: (202) 366–2264.

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard No. 301, *Fuel System Integrity*, limits the amount of fuel spillage that can occur from fuel systems during and for a 30-minute period following front, rear, and lateral barrier impact tests. Briefly, these limits are: (1) From impact until the vehicle has ceased motion, spillage must not exceed one ounce; (2) for a five-minute period following cessation of motion, fuel spillage must not exceed five ounces; and (3) for the following 25-minute period, fuel spillage during any one-minute interval must not exceed one ounce. The standard is intended to reduce deaths and injuries occuring from fires that result from fuel spillage during and after motor vehicle crashes. The standard applies to new passenger cars, and to multipurpose passenger vehicles, trucks, and buses (including school buses) with a gross vehicle weight rating (GVWR) of 10,000 pounds or less, and to school buses with a GVWR greater than 10,000 pounds. Specific performance requirements for individual components of the fuel system, such as the fuel tank, are not currently included in the standard. In 1988, Mr. Thomas J. Feaheny petitioned the agency to amend Safety Standard No. 301 to set performance requirements that would ensure that the fuel system as a whole, or an appropriate part thereof (e.g., the fuel tank), would be capable of performing in a manner equivalent to a fuel system having a high density polyethylene (HDPE) plastic fuel tank with regard to: (1) Resisting a phenomenon called hydrostatic rupture, which the petitioner stated is a likely cause of massive fuel leakage in a crash; (2) avoiding a "flame-throwing characteristic" when the system is heated externally; and (3) resisting puncture. Specifically, the petitioner requested that the standard be amended to incorporate three additional tests: the drop test, the under-vehicle fire test, and the puncture test. A result of adopting the petitioner's suggested amendment would have been to require the incorporation of HDPE fuel systems on all vehicles affected by the rule.

In response to the Feaheny petition, the agency issued an Advance Notice of Proposed Rulemaking (ANPRM) in March 1989 announcing that the agency was considering possible amendments to Standard No. 301 and requesting technical and other information concerning the necessity for such a regulation (54 FR 9855 March 8, 1989). To assist the agency in determining whether the petitioner is correct in stating that the performance of HDPE fuel tanks is superior to metallic fuel tanks, NHTSA solicited comments on the safety and practicability of new performance requirements directly evaluating the ability of fuel systems to withstand hydrostatic rupture, flame-throwing characteristics, and puncture resistance. The agency also requested makes, models, and identification numbers (VINs) for vehicles that have been equipped with non-metallic fuel tanks from 1980 to 1988 so that the agency could use data in the Fatal Accident Reporting System (FARS) to compare the fire involvement rate of vehicles with metallic fuel tanks against the fire involvement rate of vehicles with non-metallic fuel tanks.

Overview of Commenters Responses

Twenty-one commenters responded to the ANPRM. A summary of these comments was prepared and submitted to the docket. The petitioner's claim that non-metallic fuel tanks are superior to steel fuel tanks was disputed by most commenters. Commenters consistently stated that passenger safety is not at risk because of the use of metallic fuel tanks, and neither is safety guaranteed because HDPE materials are used. HDPE characteristics do not in themselves make non-metallic fuel tanks safer than metallic fuel tanks, for without specific and proper design considerations, all fuel systems could present safety problems.

Commenters indicated that the flame-throwing characteristic which the petitioner alluded to is nothing more than a controlled burn off of fuel when exposed to fire. Because the tank can be designed to direct the flame away from the passenger compartment, escape would still be possible even after this has occurred. Commenters indicated that HDPE fuel tanks did not exhibit this characteristic because the tank did not survive long enough to build up pressure. Commenters indicated that this is a different, possibly greater hazard.

Commenters indicated that there are performance differences between metallic and non-metallic fuel tanks, and these differences are manifest in component testing. However, commenters also consistently expressed their belief that the dynamic vehicle crash tests stipulated in Standard No. 301 are the most practicable and objective means for meeting the statutory requirements of the National Traffic and Motor Vehicle Safety Act. Commenters indicated that Standard No. 301 represents most real-world crash configurations and conditions, and is the most stringent standard of its type in the world. It was stated that rupture and puncture resistance are adequately covered by Standard No. 301.

Statistical Analysis

Four commenters; Chrysler, Ford, Volvo, and Volkswagen, submitted VINs in response to this request. Data from two of these commenters, Ford and Volkswagen, were eliminated because they did not meet the following criteria:

(1) Vehicles of a particular make, model and model year for which some vehicles were equipped with steel tanks and others with plastic.

(2) Vehicles of a particular make and model in which an entire year's production was equipped with steel tanks in one or more model years and with plastic in other model year(s).

The agency's National Center for Statistics and Analysis (NCSA) used the Fatal Accident Reporting System's (FARS) data files to determine the fire incidence rate of Chrysler and Volvo vehicles equipped with plastic and steel fuel tanks during the period 1980–1988. NCSA determined that, statistically, there is no difference between the rates of fire in fatal accidents involving Volvo vehicles equipped with steel fuel tanks and those equipped with pastic fuel tanks. However, for Dodge and Jeep vehicles, the analysis could not determine if there was a difference in fire incidence rates associated with plastic tanks compared to metallic tanks. While the calculated rates for vehicles with the two types of tanks were different, the difference could not be attributed to the type of tank. Other factors that may affect fire occurrence, such as tank size and mounting, could

not be accounted for in the analysis. NCSA has prepared a document, available in the docket for this rulemaking, which discusses the accident data analysis in greater detail. The agency will continue to monitor our accident files to determine what action, if any, should be taken. However, for the purposes of this rulemaking, the data do not support the petitioner's claim.

Conclusions

Contrary to the petitioner's assertion, currently available data does not show any lessened incidence of fires in vehicles with HOPE fuel tanks. In fact, the FARS analysis discussed above appears to bear out the commenters' point that HOPE fuel tanks alone do not guarantee greater fuel system integrity. The performance of the fuel system in a crash depends not just on the attributes of the fuel tank, but on the design and construction of the entire fuel system.

Standard No 301 does not now require, nor has it ever required, manufacturers to install any particular type of fuel tank or other fuel system component to comply with the standard. Instead, any fuel system that provides the specified performance may be installed to comply with those requirements. This approach has consistently been followed to enable and encourage the automobile industry to develop and improve the safety characteristics of the fuel systems offered to the public. If the agency were to require the installation of one particular component in the fuel system, such as HOPE fuel tanks, this requirement would discourage the industry from exploring other types of fuel tanks and other changes that could improve the safety protection afforded by vehicle fuel systems, including innovative modifications of existing types of fuel tanks or the development of entirely new types of fuel tanks or fuel systems. The agency is very reluctant to take such an action.

This is not to say that the agency cannot envision circumstances under which it might consider mandating the use of just one type of fuel tank in motor vehicles. The agency would consider such a mandate if there were clear and convincing evidence that a single type of fuel tank had significant safety advantages over any other type of fuel tank in any fuel system, and if such a mandate would satisfy all other statutory criteria.

There is, however, no such evidence in this instance. Mr. Feaheny did not provide any data demonstrating that HOPE fuel tanks would be more effective in reducing injury to occupants of motor vehicles than any other type of fuel tank. Further, the available data from other sources, including the agency's data files, do not support Mr. Feaheny's petition. Mr. Feaheny did not provide, nor is the agency aware of, any data showing that metal fuel tanks are less safe or less effective than HOPE fuel tanks.

Absent any such data and evidence at this time, the agency has no reason to mandate a single type of fuel tank. Thus, NHTSA has decided to terminate this rulemaking action.

Even though NHTSA is terminating this rulemaking action, the agency will continue to monitor the safety aspects of HOPE and metal fuel tanks. The NCSA will analyze State data files to expand on the FARS data analysis. When this analysis is completed, NCSA will prepare a supplemental report for the docket. The agency will also continue to monitor the Vehicle Complaint Report Files in the Office of Defects Investigation for problems related to metallic and non-metallic fuel tanks.

Issued on September 27, 1990.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 90-23332 Filed 10-2-90; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 55, No. 192
Wednesday, October 3, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Agency Information Collection Activities Under OMB Review

AGENCY: ACTION.

ACTION: Information collection request under review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the Federal Domestic Volunteer Agency.

BACKGROUND: Under the Paperwork Reduction Act (44 U.S.C., chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted two copies of the attached information collection proposal to OMB. OMB and ACTION will consider comments on the proposed collection of information and recordkeeping requirements. ACTION is requesting an expedited review by OMB with final action by October 31, 1990.

Comments may be directed to:

Janet Smith, ACTION, Clearance Officer, ACTION, 1100 Vermont Avenue NW., Washington, DC 20525, Tel: (202) 634–9245.

and

Daniel Chenok, Desk Officer for ACTION, Office of Management & Budget, 3200 New Executive Office Bldg., Washington, DC 20503, Tel: (202) 395–7316.

Title of Form (s): VISTA Literacy Corps Evaluation.

Need and Use: The information provided by this survey will be used to assess the degree to which the VISTA Literacy Corps is meeting its legislative mandate and to evaluate strengths and weaknesses of the program.

Type of Request: New.

Respondent's Obligation to Reply: Voluntary.

Description of Respondents: Community volunteers & project sponsors.

Frequency of Collection: Nonrecurring.

Estimated Number of Annual Responses: 610.

Average Burden Hours per Response: .25 hrs.

Dated: September 28, 1990.

Janet Smith

Clearance Officer, ACTION

OMB No:

Expires:

VISTA Literacy Corps Evaluation

Project Sponsor Questionnaire

Project: _____

Name of Respondent: _____

Title: _____

Project Mailing Address: _____

_____

Project Telephone Number: (_____)

_____

Instructions

This questionnaire is part of a study being conducted by Development Associates for the ACTION Agency. The purpose of the study is to examine the effects of the VISTA Literacy Corps experience on the VISTA volunteers and the communities in which they served.

The study is authorized under PL101–204. While you are not required to respond, your answers are needed to make our reports comprehensive and accurate. Your responses will be kept confidential to the extent permissible under the law, and you will not be identified in any report resulting from this study. These questions should take approximately 30 minutes to complete.

Please answer the following questions as completely and accurately as you can. Thank you for your participation in this evaluation.

Please return to: Development Associates, Inc., 2924 Columbia Pike, Arlington, VA 22204.

Sponsoring Organization

1. For how many years has the organization sponsoring this VISTA literacy project been in existence? _____ years

2. What is the nature of the sponsoring organization?

Local literacy council (private)	1
Local affiliate of a national literacy organization	2
Community based organization/community action agency	3
Local school system	4
City or county government	5
College or university	6
Church or church-related organization	7
State government	8
Other	9

3. Is literacy the *primary* focus of this organization?

Yes . . . 1 No . . . 1

If no, what are the major activities of the organization?

_____

_____

4. For how many years has this organization been providing literacy services? _____ years

5. How many *paid* staff members of the organization (not including VISTA volunteers) are involved in literacy efforts?

a. Full-time staff _____

b. Part-time staff _____

6. How many community volunteers (i.e., non-VISTA) are involved in the literacy efforts of this organization?

_____

7. What is the total annual cash budget for your literacy program (not including VISTA grant funds or VISTA volunteer allowances)? $_____

8. How much funding does the literacy program receive from the following sources? (Estimate, if necessary)

Federal government (excluding VISTA)	$_____
State government	$_____
Local government	$_____
Local private sources (e.g., United Way)	$_____
Local businesses	$_____
Private contributions	$_____
Other private sources (e.g., foundation grants)	$_____
Other_____	$_____
Other_____	$_____

9. In what ways are the literacy efforts of your organization related to the efforts of other organizations in the community? (Circle all that apply).

We receive referrals of clients from other organizations 1
We make referrals of clients to other literacy organizations 2
We meet regularly with other organizations to discuss client needs and to plan programs 3
Our programs/activities are sometimes taken over or assumed by other organizations 4
We sometimes take over or assume the programs/activities of other organizations 5
We sometimes have joint training of staff or tutors with other organizations 6
We provide or receive tutors to/from other organizations 7
We provide or receive technical assistance to/from other organizations 8
Other_____ 9

Project Clients

10. How many clients does your literacy program presently serve?

_____

11. What percentage of your literacy program clients are receiving:

	Percent
Regular literacy instruction	_____
English-as-Second Language (ESL) instruction	_____
Total	100

12. What percentage of your literacy program clients are receiving:

	Percent
Individual (one-on-one) tutoring	_____
Group instruction	_____
Total	100

13. When they entered your literacy program, what percentage of your clients were reading at the following grade levels? (Please estimate, if necessary)

	Percent
0–4	_____
5–8	_____
9–12	_____
Total	100

14. What percentage of your clients are: (Estimate, if necessary)

	Percent
Male	_____
Female	_____
Total	100

15. What percentage of your clients are: (Estimate, if necessary)

	Percent
Hispanic	_____
Black	_____
White, non-Hispanic	_____
Asian/Pacific Islander	_____
Native American	_____
Total	100

16. What percentage of your clients are: (Estimate, if necessary)

	Percent
17 years or less	_____
18–25 years	_____
26–45 years	_____
46–60 years	_____
61 years or more	_____
Total	100

17. What percentage of your clients are: (Estimate if necessary)

	Percent
Unemployed	_____
Employed part-time	_____
Employed full-time	_____
Total	100

18. What percentage of your clients: (Estimate, if necessary)

	Percent
Have family incomes at or below the poverty level?	_____
Are parents of children between the ages of 2–8?	_____

19. In the community served by this project, what is the (Estimate, if necessary)

	Percent
Unemployment rate?	_____
Percentage of households living in poverty?	_____
Percentage of adults with less than a ninth grade education?	_____

20. What procedures do you use for recruiting clients? (Circle all that apply)

Referrals from community agencies 1
Referrals from employers 2
Referrals from churches 3
Television or radio announcements 4
Signs or brochures throughout community 5
Tables/booths at community settings 6
Announcements in newspapers 7
Other_____ 8
Other_____ 9

21. What is the average length of time clients participate in the literacy program? _____months

VISTA Volunteers

22. How many VISTA volunteers are presently serving the project? _____

23. How were those VISTA volunteers recruited? (Circle all that apply

Newspaper advertisement 1
Radio or television announcement 2
Word-of-mouth 3
Referral from ACTION 4
Previous contact with organization (as client or tutor) 5
Other:_____ 6
Other:_____ 7

24. What services do VISTA volunteers provide? (Circle all that apply)

General community awareness/public relations 1
Recruitment of clients 2
Recruitment of tutors or other volunteers 3
Assessment of client needs 5
Evaluation of client progress 5
Direct provision of tutoring services 6
Training of tutors 7
Development of management or administrative systems 8
Fundraising 9
Curriculum development 10
Other_____ 11
Other_____ 12

25. To what extent do your VISTA volunteers perform the same or different activities? (Circle one)

All VISTA volunteers perform basically the same activities 1
There is some overlap among VISTA volunteers, but they also have some distinct activities 2
There is little or no overlap in what the VISTA volunteers do 3
There is only one VISTA volunteer 4

26. What are the activities in which VISTA volunteers are most effective?

a._____

b. _____

c. _____

27. What are the activities in which VISTA volunteers are least effective?

a. _____

b. _____

c. _____

28. How many hours per week, on the average, do volunteers work? _____ hours

29. On the average, how many hours of training do VISTA volunteers receive *from your agency:*

a. when they begin as VISTA volunteers? _____ hours

b. in the average year after initial training? _____ hours

30. What are the major topics on which training is provided, and who provides the training?

	Topic	Provider
a.		
b.		
c.		
d.		

31. How many hours per week do you or other organization staff spend supervising VISTA volunteers? _____ hours

Effects of VISTA Project

32. How has the presence of VISTA volunteers influenced the effectiveness of your literacy program? (Circle all that apply)

Increased number of regular literacy clients served (from _____ to _____)	1
Increased number of ESL clients served (from _____ to _____)	2
Increased number of tutors (from _____ to _____)	3
Increased number of other volunteers (from _____ to _____)	4
Expanded program into different parts of the community	5
Expanded program to serve new groups of clients (specify: _____)	6
Improved effectiveness of tutors	7
Increased average reading level (from _____ grade to _____ grade)	8
Improved management or administrative systems (specify: _____)	9
Increased resources for the operation of the program (Cash $_____ In-kind $_____)	10
Increased cooperation or partnerships with other organizations	11
Developed new assessments of community literacy needs	12
Developed plans for new literacy programs or areas	13
Other: _____	14
Other: _____	15

33. What *formal* data, if any, do you collect concerning the effectiveness of your literacy program? (Circle all that apply)

Reading tests (pre and post)	1
Writing tests (pre and post)	2
Workbook or text completion units	3
Life skills outcomes (drivers licenses, citizenship, etc.)	4
New or improved job outcomes	5
Other: _____	6
Other: _____	7

34. How do you believe the literacy program will be affected when the VISTA project ends? (Circle one)

I expect there to be an expansion in services after the VISTA project ends	1
I believe that there will be little change in services	2
I believe that a few services will be lost	3
I believe that many of our services will be lost	4
I believe that our overall program may be discontinued	5

35. What preparations, if any, have you made to deal with the end of the VISTA project (e.g., hiring staff, training additional staff or volunteers)?

a. _____

b. _____

c. _____

OMB No.:
Expires:

VISTA Literacy Corps Evaluation

VISTA Volunteer Mail Questionnaire

Name: _____

Sponsor: _____

Sponsor City and State: _____

Instructions

This questionnaire is part of a study being conducted by Development Associates for the ACTION Agency. The purpose of the study is to examine the effects of the VISTA Literacy Corps experience on the VISTA volunteers and the communities in which they served.

The study is authorized under PL 101–204. While you are not required to respond, your answers are needed to make our reports comprehensive and accurate. Your responses will be kept confidential to the extent permissible under the law, and you will not be identified in any report resulting from this study. These questions should take approximately 20–30 minutes to complete.

Please answer the following questions as completely and accurately as you can. Thank you for your cooperation.

Please return to: Development Associates, Inc., 2924 Columbia Pike, Arlington, VA 22204.

Background

1. Date when you started as a VISTA volunteer with this project: _____/_____/_____

2. What is your age? _____

3. Are you:

Male . . . 1 Female . . . 2

2. What is your racial/ethnic group? (Circle one)

Hispanic	1
Black	2
White, non-Hispanic	3
Asian/Pacific Islander	4
Native American/Aleut	5
Other: _____	6

5. How far have you gone in school? (Circle one)

Eighth grade or less	1
Some high school	2
High school graduate	3
Some college or postsecondary technical school	4
College graduate	5
At least some graduate study	6

6. What were you doing immediately prior to entering VISTA? (Circle all that apply)

Working full-time	1
Working part-time	2
Serving as a volunteer or tutor	3
Attending school	4
Retired	5
Other _____	6

7. Were you living in the community served by the project when you were recruited for VISTA?

Yes . . . 1 No . . . 2

8. Were you affiliated in any way with the sponsoring agency of this project (as a volunteer, employee, etc.) before you joined the VISTA project?

Yes . . . 1 No . . . 2

9. Did you have training or experience working with people with limited literacy skills prior to joining VISTA?

a. Training: Yes . . . 1 No . . . 2

b. Experience: Yes . . . 1 No . . . 2

c. If yes, please describe.

_____

10. What motivated you to become a VISTA volunteer?

a. _____

b. _____

11. Do you have responsibility for any special subgroups of clients (e.g., non-English speakers, senior citizens, school dropouts, parents of young children)?

Yes . . . 1 No . . . 2

If yes, which subgroups?

_____

Project Activities

12. How many hours per week do you spend on the following activities?

a. Client recruitment _____
b. Community, outreach/public awareness _____
c. Instruction/tutoring of clients in groups _____
d. Individual instruction/tutoring of clients _____
e. Development of outreach/promotional materials _____
f. Evaluation of client progress _____
g. Recruitment of literacy tutors or other volunteers _____
h. Training of literacy tutors _____
i. Project recordkeeping _____
j. General office administration _____
k. Development of management or administrative systems _____
l. Fundraising _____
m. Curriculum development _____
n. Assessment of client needs _____
o. Other: _____ _____
p. Other: _____ _____
Total Hours per week _____

13. In which activities do you feel you have been particularly effective or successful?

a. _____

b. _____

c. _____

14. In which activities, if any, do you feel you have been *less* effective or successful?

a. _____

b. _____

c. _____

15. How would you rate your overall effectiveness as a VISTA volunteer? (Circle one)

Not very effective 1
Somewhat effective 2
Effective 3
Very effective 4

16. How many hours per week, on the average, do you spend meeting with your supervisor? _____ hours

Training

17. Since you have been assigned to your VISTA project, how much formal training have you received *from any source* to help you perform your activities? (Enter 0 if none) _____ hours

18. What were the major content areas of that training and from whom did you receive it? (Circle all that apply.)

	Sponsoring organization	VISTA	Other source
a. Goals and objectives of VISTA	1	2	3
b. VISTA administrative procedures	1	2	3
c. Activities to be performed at sonsoring organization	1	2	3
d. Goals and objectives of the sponsoring organization	1	2	3
e. Administration/management of a literacy program	1	2	3
f. Use of local volunteers as literacy tutors	1	2	3
g. Program recordkeeping	1	2	3
h. Approaches to literacy tutoring	1	2	3
i. Training of literacy tutors	1	2	3
j. Materials for literacy tutoring	1	2	3
k. Fundraising	1	2	3
l. Communication/public relations	1	2	3
m. Other; _____	1	2	3
n. Other: _____	1	2	3

19. Which of the categories of training which you have received have been most useful?

a. _____

b. _____

c. _____

20. Which of the categories of training have been least useful?

a. _____

b. _____

c. _____

21. In what areas do you need additional training in order to help you do your job?

_____

_____

Effectiveness of Activities

22. To what extent have you personally seen the following improvements in the lives of participants based on literacy tutoring?

	Not at all	A little	Some	A lot
a. Improved life skills (drivers licenses, citizenship, etc.)	1	2	3	4
b. Improved ability to perform job functions	1	2	3	4
c. New jobs or job promotions	1	2	3	4
d. Increase in sense of self-worth/self-esteem	1	2	3	4
e. Increased personal enjoyment of reading	1	2	3	4
f. Increased enrollment in other education programs	1	2	3	4
g. Greater involvement in children's learning	1	2	3	4
h. Greater family satisfaction	1	2	3	4
i. Other _____	1	2	3	4
j. Other _____	1	2	3	4

23. How would you rate the *overall success* of the VISTA literacy project? (Circle one)

Not very successful	1
Somewhat successful	2
Successful	3
Very successful	4
I can't really rate this	5

Impact of VISTA Literacy Corps Experience on You

24. Please rate the extent to which your VISTA experience has helped you in each of the following areas. (Circle one in each row.) Note: it may not have helped because you may have already been strong in the area.

Area	Amount helped			
	Not at all	A little	Some	A lot
a. Ability to define life goals	1	2	3	4
b. Personal self-confidence	1	2	3	4
c. Ability to organize my time	1	2	3	4
d. Ability to plan and complete taks assignments	1	2	3	4
e. Reading and writing skills	1	2	3	4
f. Ability to get along with supervisors and co-workers	1	2	3	4
g. Ability to get along with different types of people who are clients	1	2	3	4
h. Knowledge of literarcy issues	1	2	3	4
i. Motivation to do well on a job	1	2	3	4
j. Ability to teach or train others	1	2	3	4

25. What are the two most important things which you received from your VISTA experience thus far?

a. __
xs

b. __
xs

26. Are there any suggestions or recommendations you would make to improve the VISTA Literacy Corps program?

a. __
xs

b. __
xs

OMB No:
Expires:

VISTA Literacy Corps Evaluation

Former Volunteer Telephone interview

Name:

Telephone Number: (_____)

Sponsor of VISTA Project:

Sponsor City and State:

Instructions

Read the following instructions to the interviewee:

This interview is part of a study being conducted by Development Associates for the ACTION Agency. The purpose of the study is to examine the effects of the VISTA Literacy Corps Experience on CITA volunteers and the communities in which they served.

The study is authorized under PL 101–204. While you are not required to respond, your answers are needed to make our reports comprehensive and accurate. Your responses will be kept confidential to the extent permissible under law, and you will not be identified in any report resulting from this study. The questions should take approximately 10–15 minutes.

1. What was the date on which you started with the VISTA literacy project?
2. What was the date on which you ended your work on the VISTA project?
3. Why did you leave the project?

4. Were you living in the community served by the project when you were recruited for VISTA?
Yes . . . 1 No . . . 2
5. Are you presently employed?
Yes . . . 1 No . . . 2 (Skip to Question 10)
6. Are you working full-time or part-time?
Yes . . . 1 Part-time . . . 2
7. Is your job related to your VISTA experience?
Yes . . . 1 No . . . 2 (Skip to Question 10)
8. How is it related?

9. What is your occupation?

10. Are you presently attending school?
Yes . . . 1 No . . . 2 (Skip to Question 14)
11. Are you attending full-time or part-time?
Full-time . . . 1 Part-time . . . 2
12. Is your schooling related to your VISTA experience?
Yes . . . 1 No . . . 2
13. What are you studying in school?

14. May I ask your age? xxxx
15. Are you male or female? (ASK only, if unsure)
Male . . . 1 Female . . . 2

Hispanic	1
Black	2
White	3
Asian	4
Native American	5
Other	6

17. How far have you gone in school? (Do not read options.)

Eighth grade or less	1
Some high school	2
High school graduate	3
Some college	4
College graduate	5
Graduate study	6

I'd next like to ask some questions about your VISTA project experience.

18. On the average, how many hours a week did you you work with the project?

19. ON which of the following activities did you spend at least one hour per week?

a. Client recuritment	1	2
b. Community outreach/public awareness	1	2
c. Group instruction or tutoring	1	2
d. Individual instruction or tutoring	1	2
e. Development of outreach or promotional materials	1	2
f. Evaulation of client progress	1	2
g. Recruitment of tutors or other volunteers	1	2
h. Training of tutors	1	2
i. Project recrodkeeping	1	2
j. General office administration	1	2
k. Development of management or administrative systems	1	2
l. Fundrasing	1	2
m. Curriculum development	1	2

n. Assessment of client needs 1 2

20. What other activities, if any, did you perform?

a. _____
b. _____
c. _____

21. What were your two or three major project activities?

a. _____
b. _____
c. _____

22. In performing your project activities, what training in addition to that you received would have been helpful to you?

a. _____
b. _____
c. _____

23. How would you rate your overall effectiveness as a VISTA volunteer? Would you say you were . . .

Not very effective 1
Somewhat effective 2
Effective 3
Very effective 4

24. In which activities do you feel you were particularly effective or successful?

a. _____
b. _____
c. _____

25. In which activities do you feel you were less effective or successful?

a. _____
b. _____
c. _____

26. I'm interested in how you think the VISTA literacy project in which you worked affected the lives of clients? What positive outcomes, if any, did you see for clients? [Do not read alternatives]

Improved life skills (drivers license, citizenship) 1
Improved ability to perform job functions 2
New jobs or job promotions 3
Increased personal enjoyment of reading 4
Increased enrollment in other educational programs 5
Greater involvement in children's learning 6
Greater family satisfaction 7
Other 8
Other 9

27. How would you rate the *overall effectiveness* of the VISTA literacy project for which you worked? Would you say it was

Not very effective 1
Somewhat effective 2
Effective 3
Very effective 4
[Don't know/can't rate] 5

28. I'm interested in how you feel the VISTA experience affected you. Would you say it had a positive effect on your . . .

	Yes	No	Not sure
a. Ability to define life goals	1	2	3
b. Personal self-confidence	1	2	3
c. Ability to organize your time	1	2	3
d. Ability to plan and complete work assignments	1	2	3
e. Reading and writing skills	1	2	3
f. Ability to get along with supervisors and co-workers	1	2	3
g. Ability to get along with different types of people as clients	1	2	3
h. Knowledge of literacy issues	1	2	3
i. Motivation to do well on a job	1	2	3
j. Ability to teach or train others	1	2	3

29. What were one or two most important things you got out of your VISTA experience?

a. _____
b. _____

30. Are there any suggestions or recommendations you would make to improve the VISTA Literacy Corps program?

a. _____
b. _____

Thank you

[FR Doc. 90-23361 Filed 10-2-90; 8:45 am]

BILLING CODE 6050-28-M

Information Collection Submitted to the Office of Management and Budget for Review

AGENCY: ACTION.

ACTION: Information collection submitted to the Office of Management and Budget for review.

SUMMARY: The following form(s) have been submitted to OMB for approval under the Paperwork Reduction Act (44 U.S.C. chapter 35). This entry is not subject to 44 U.S.C. 3504(h). Copies of the submission(s) may be obtained from the ACTION Clearance Officer.

DATES: OMB and ACTION will consider comments received by November 2, 1990. Send comments to both:

Janet Smith, Clearance Officer, ACTION, 1100 Vermont Avenue, NW., Washington, DC 20525, Tel: (202) 634-9245.

and

Daniel Chenok, Desk officer for ACTION, Office of Management and Budget, 3002 New Executive Office Bldg., Washington, DC 20503, Tel: (202) 395-7316.

Title of Form(s): Older Americans Volunteer Programs "Project Grant Application".

ACTION Forms No(s): ACTION Form 424-OA.

Need and Use: ACTION uses this application to evaluate new grantees' capability to sponsor OAVP programs; once funded, this application is used to monitor compliance with ACTION guidelines.

Type of Request: Project grant application.

Respondent's Obligation to Reply: Required to obtain/retain benefits.

Descriptions of Respondents: Public agencies and private non-profit organizations.

Frequency of Collection: Annually.

Estimated Number of Annual Responses: 1200.

Average Burden Hours per Response: 16 hours/response.

Estimated Annual Reporting or Disclosure Burden: 18,428 hrs/total.

Janet Smith,

Clearance Officer, ACTION.

[FR Doc. 90-23365 Filed 10-2-90; 8:45 am]

BILLING CODE 6050-28-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Northern Spotted Owl Habitat Management

AGENCY: Office of the Secretary, USDA.

ACTION: Notice; vacation of northern spotted owl guidance.

SUMMARY: The Department of Agriculture gives notice that the Chief of the Forest Service is vacating the decision contained in the December 1988 Record of Decision which amended the Regional Guide for the Pacific Northwest Region with regard to management of northern spotted owl habitat. Section 318 of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 provided that the Forest Service should review and revise as appropriate the December 1988 Record of Decision by September 30, 1990. The portion of the Pacific Southwest Region's 1984 Regional Guide establishing standards and guidelines for management of northern spotted owl habitat is also vacated. Pending enactment of new legislation, any applicable action by the Endangered Species Committee, adoption of a recovery plan by the Fish and Wildlife Service, or the results of further consultation between the Forest Service and the Fish and Wildlife Service, the Service will conduct timber management activities in a manner not inconsistent with the Interagency Scientific Committee recommendations during this interim period.

FOR FURTHER INFORMATION CONTACT: Questions and comments concerning this notice should be addressed to James C. Overbay, Deputy Chief, National Forest Systems, Forest Service, U.S.D.A., P.O. Box 96090, Washington, DC 20090–6090, (202) 453–8205.

SUPPLEMENTARY INFORMATION: In December 1988, following publication of a supplemental environmental impact statement for amendment of the Pacific Northwest Regional Guide (National Forests in Oregon and Washington), the Chief of the Forest Service issued a Record of Decision establishing standards and guidelines for management of habitat of the northern spotted owl in the Pacific Northwest Region. The 1988 decision complied with the regulatory requirement at 36 CFR 219.19 to maintain viable populations of vertebrate species and sought to ensure that protection for the northern spotted owl was provided for on National Forest System lands.

The analysis leading to the 1988 Record of Decision occurred during the same time period that the United States Fish and Wildlife Service was considering whether to list the northern spotted owl under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 et seq. In January 1987, the Fish and Wildlife Service received a petition requesting the listing of the northern spotted owl as an endangered species under the Endangered Species Act. After issuance of the 1988 Record of Decision, the Fish and Wildlife Service, on June 23, 1989, proposed to list the northern spotted owl as threatened, 54 FR 26666.

Subsequently, under the authority of an interagency agreement between the Forest Service, USDA; the National Park Service; the Bureau of Land Management; and the Fish and Wildlife Service, USDI, an Interagency Scientific Committee was chartered to develop a scientific strategy for conservation of northern spotted owls. In October 1989, subsection 318(b)(6)(B) of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 directed the Chief of the Forest Service to consider the report of the Interagency Scientific Committee and other new information subsequent to the 1988 Record of Decision, and "to review and revise as appropriate, the December 1988 Record of Decision." The subsection further directed that any changes to the Record of Decision were to be completed, and "in effect not later than September 30, 1990."

On April 2, 1990, the Interagency Scientific Committee released its findings and recommendations in a report entitled "A Conservation Strategy for the Northern Spotted Owl." On June 22, 1990 the Fish and Wildlife Service listed the northern spotted owl under the Endangered Species Act as threatened throughout its range, 55 FR 26114. Although the notice did not then express an opinion on the standards and guidelines adopted in the 1988 Record of Decision, in its July 23, 1990 Biological Opinion on "Formal Consultation on the U.S. Forest Service Section 318 Timber Sale Program" (Opinion) the Fish and Wildlife Service said that the Spotted Owl Habitat Area (SOHA) system is not effective as a long-term conservation strategy to meet the requirements of the Endangered Species Act. Opinion at 12.

On June 26, the Secretaries of Agriculture and the Interior formed an Interagency Task Force to devise a forest management plan for the Forest Service for fiscal year 1991 and to determine ways to achieve a balance between preservation of the northern spotted owl and the protection of jobs and economic opportunity in the Pacific Northwest. The Task Force completed its work on September 21, 1990, and recommended, among other things, that Congress consider legislation to address the issue.

Listing of a species under the Endangered Species Act constitutes a determination by the Fish and Wildlife Service that the species is in danger of extinction and therefore does not have a viable population, as defined at 36 CFR 219.19, in the area in which it is listed. As a consequence of the listing of the northern spotted owl, the Forest Service's regulatory authority for planning and management of the habitat of the northern spotted owl is superseded by the requirements of the Endangered Species Act. In addition the Fish and Wildlife Service's Biological Opinion in effect, constitutes a judgment that the 1988 Record of Decision is not an adequate long-term conservation strategy under the Endangered Species Act.

Taking consideration of the statutory requirements and scientific analysis referenced above, the 1988 Record of Decision, and all direction therein, is vacated. The SOHAs established in compliance with the Record of Decision direction are, therefore, also vacated, as well as any previous decisions concerning management of spotted owl habitat. As a result, all final Forest Plans are therefore amended to incorporate this vacation and return the SOHAs established in compliance with the 1988 Record of Decision to the land classifications of the adjacent lands as established in the respective final Forest Plans. Pending enactment of new legislation, any applicable action by the Endangered Species Committee, adoption of a recovery plan by the Fish and Wildlife Service, or the results of further biological consultation between the Forest Service and the Fish and Wildlife Service, the Forest Service will conduct timber management activities in a manner not inconsistent with the Interagency Scientific Committee recommendations, which are more than sufficient to assure compliance with the Endangered Species Act during this interim period. Consultation under the Endangered Species Act will follow the Fish and Wildlife Service's June 1990 "Interim Procedures Leading to Endangered Species Act Compliance for the Northern Spotted Owl", or subsequent procedures issued by the Fish and Wildlife Service.

All Forest Service actions involving the northern spotted owl or its habitat will henceforth be carried out in compliance with the requirements of the Endangered Species Act, not 36 CFR 219.19.

Because the listing of the northern spotted owl also affects four national forests in northern California, all direction in the 1984 Pacific Southwest Regional Guide pertaining to the northern spotted owl is also vacated. This includes SOHAs established in

compliance with that Record of Decision direction on the affected national forests. Although the Pacific Southwest Regional Guide established standards and guidelines for management of spotted owl habitat throughout California, this notice only affects the Regional Guide direction applicable to the northern spotted owl. Direction applicable to the California owl is not affected. This is because only the northern spotted owl has been listed under the Endangered Species Act.

This notice applies to the 13 National Forests in the Pacific Northwest Region affected by the 1988 Record of Decision, the Mt. Baker-Snoqualmie, Gifford Pinchot, Siuslaw, Umpqua, Siskiyou, Okanogan, Wenatchee, Willamette, Winema, Olympic, Mt. Hood, Deschutes, and the Rogue River. This notice also applies to four northern California forests that contain northern spotted owls, the Six Rivers, Mendocino, Klamath and Shasta-Trinity.

This notice is effective as of September 30, 1990, and constitutes compliance with the requirements of section 318. The Endangered Species Act applies to this notice of vacation; the National Environmental Policy Act, 42 U.S.C. 4321, et seq., and the National Forest Management Act, 16 U.S.C. 1600, et seq., do not apply.

Dated: September 28, 1990.

John L. Evans,

Deputy Assistant Secretary for Natural Resources and Environment.

[FR Doc. 90-23396 Filed 10-2-90; 8:45 am]

BILLING CODE 3410-11-M

Agriculture Research Service

Intent To Grant an Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant an exclusive license to Animal Biotechnology Cambridge, Ltd., Cambridge, England, on U.S. Patent Application Serial No. 07/349,669, "Method to Preselect the Sex of Offspring," filed May 10, 1989.

DATES: Comments must be received by December 3, 1990.

ADDRESSES: Please send comments to: USDA–ARS–Office of Cooperative Interactions, Beltsville Agricultural Research Center, Baltimore Boulevard, Building 005, room 401, BARC–W, Beltsville, Maryland 20705.

FOR FURTHER INFORMATION CONTACT: M. Ann Whitehead of the Office of Cooperative Interactions at the Beltsville address given above; telephone: 301/344–2786, (FTS) 344–2786.

SUPPLEMENTARY INFORMATION: The USDA–ARS intends to grant to Animal Biotechnology Cambridge Ltd., an exclusive license to practice the said invention disclosed in U.S. Patent Application Serial No. 07/349,669, "Method to Preselect the Sex of Offspring," filed May 10, 1989. Notice of Availability was given in the Federal Register on July 26, 1989.

Patent rights to this invention are assigned to the United States of America as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Animal Biotechnology Cambridge, Ltd., has submitted a complete and sufficient application for a license and has entered into a Cooperative Research and Development Agreement with the Agricultural Research Service providing for further development of the invention.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7 and will conform to the intent of 15 U.S.C. 3710a. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C 209 and 37 CFR 404.7 and the intent 15 U.S.C. 3710a.

William H. Tallent,

Assistant Admiistrator.

[FR Doc. 90-23327 Filed 10-2-90; 8:45 am]

BILLING CODE 3410-03-M

Commodity Credit Corporation

1990 Crop Sugar Beets and Sugarcane Price Support Loan Rates

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of determination.

SUMMARY: This notice announces the national price support loan rates established by the Secretary of Agriculture with respect to the 1990 crop of domestically grown sugar beets and surgarcane and also sets forth the levels at which price support will be made available. The national (weighted average) loan rate for raw cane sugar will be 18.00 cents per pound. The national (weighted average) loan rate for refined beet sugar will be 21.93 cents per pound. Both of these rates will be further adjusted to reflect the processing location of the sugar offered as collateral for a price support loan (i.e., location differentials).

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: David Wolf, Price Support Branch, Cotton, Grain and Rice Price Support Division, ASCS, US Department of Agriculture, P.O. Box 2415, Washington, DC 20013. Phone: (202) 447–4704. Copies of the Regulatory Impact Anlaysis are available from Jane K. Phillips, Commodity Analysis Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013.

SUPPLEMENTARY INFORMATION:

Rulemaking Matters

This notice has been reviewed under USDA procedures established in accordance with the provision of Department Regulation 1512–1 and Executive Order 12291 and has been classified as "major" since this action may have an annual effect on the economy of $100 million or more.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

An Environmental Evaluation with respect to the price support loan program has been completed. It has been determined that this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, land use, and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

The title and number of the Federal Assistance Program to which this notice applies are: Title—Commodity Loans and Purchases, Number 10.051, as found in the Catalog of Federal Domestic Assistance.

This notice sets forth determinations with respect to the following issues which are briefly described:

1. Loan Rates

Section 201(j) of the Agricultural Act of 1949, as amended by the Food Security Act of 1985, provides that the Secretary of Agriculture is required to

support the price of the 1986 through 1990 crops of sugar beets and sugarcane through nonrecourse loans. Section 201(j) further provides that the Secretary shall support the price of domestically grown sugarcane at such level as the Secretary determines appropriate, but not less than 18.00 cents per pound, raw value, and the price of domestically grown sugar beets at such level as the Secretary determines is fair and reasonable in relation to the loan level for sugarcane.

2. Location Differentials

The application of differentials to loan rates is common to most price support programs administered by CCC. The loan rates for sugar processed in specific regions will be based upon the transportation costs associated with moving sugar to the markets that are normal for those regions.

3. Minimum Price Support Levels

The minimum price support levels are the minimum amounts that must be paid to producers by a processor participating in the price support loan program. The minimum price support levels are set forth by regions. In general, these support levels would be reflected in contracts between individual processors and producers for the 1990 crop of sugar beets and sugarcane.

4. Determination of Average Quality or Recovery of Sugar Per Net/Gross Ton

The minimum price support levels may be adjusted for sugarcane or sugar beets of non-average quality. Accordingly, "average quality" is defined.

5. Cost Reduction Options

Section 1009(a) of the Food Security Act of 1985 provides that whenever the Secretary determines that an action authorized by that section will reduce the total of the direct and indirect costs to the Federal Government of a commodity program administered by the Secretary without adversely affecting income to small and medium-sized producers participating in such program, the Secretary shall take such action with respect to that commodity program. For the purposes of the sugar price support program, these actions include: (1) The Commercial purchases of commodities by the Secretary; and (2) the settlement of nonrecourse loans at an amount less than the total of the principal loan amount and accumulated interest, but not less than the principal amount, if such action will result in: (A) receipt of a portion rather than none of the accumulated interest, (B) avoidance of default of the loan, or (C) elimination of storage, handling, and carrying charges on the forfeited loan collateral.

These determinations are required to be made in accordance with the provisions of section 201(j) of the Agricultural Act of 1949 and section 1009 of the Food Security Act of 1985. Section 1017(b) of the Food Security Act of 1985 provides that the Secretary shall determine the rate of loans and price support levels for any of the 1986 through 1990 crops of commodities covered under the Agricultural Act of 1949 without regard to the requirements for notice and public participation in rulemaking prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

Determination

1. Loan Rates

The national (weighted average) loan rate for the 1990 crop (as defined in 7 CFR 1435.302(k), the 1990 crop generally consists of sugar beets and sugarcane processed during the period July 1, 1990 through June 30, 1991) shall be 21.93 cents per pound for refined beet sugar and 18.00 cents per pound for cane sugar, raw value, incuding the cane sugar, raw value, contained in refined cane sugar, sugarcane syrup, and edible molasses. This is the minimum statutory loan rate for cane sugar. It has been determined that the loan rate established for sugar beets is fair and reasonable in relation to the loan level for sugarcane. In the case of refined or speciality sugar made from raw cane sugar, the rate shall be the appropriate regional rate applied to the quantity of the refined or specialty sugar converted to an equivalent quantity of cane sugar, raw value.

The 1990 loan rate for refined beet sugar reflects the value of the sugar based on the relationship between the weighted average of grower returns for sugar beets and the weighted average of grower returns for sugarcane, expressed on a cents per pound basis for refined beet sugar and raw cane sugar, for the immediately preceding 10-year period. After adjustment to reflect the proper price relationship, the estimated 1990 sugar beet crop fixed marketing costs (which are incurred by beet processors regardless of the disposition of the sugar) are added to make up the basic loan rate for refined beet sugar. This is the same method that was used for the 1989 crop.

2. Location Differentials

The loan rates determined for both raw cane sugar and refined beet sugar have been adjusted to reflect the processing location of the sugar offered as collateral for a price support loan. These adjustments (i.e., location differentials) have been calculated in the same manner as they have been in previous years. The loan rates for sugar processed in specific regions have been based upon the transportation costs associated with moving that sugar to the markets that are normal for those regions.

The processing regions and applicable 1990 crop regional loan rates for refined beet sugar shall be listed below:

Region number and description	Cents per pound of refined sugar
1. Michigan and Ohio	22.80
2. Minnesota and the eastern half of N. Dakota	22.06
3. Northeastern quarter of Colorado; Nebraska; and the southeastern quarter of Wyoming	21.65
4. Texas	22.40
5. Montana and the northeastern quarter of Wyoming and western half of N. Dakota	21.44
6. That part of Idaho east of the eastern boundary of Owyhee County and of such boundary extended northward	21.27
7. That part of Idaho west of the eastern boundary of Owyhee County and of such boundary extended northward; Oregon	21.27
8. California	22.21

Note: Fixed marketing expenses are considered in computation to insure equality with support prices for sugarcane.

The processing regions and applicable 1990 regional crop loan rates for cane sugar, raw value, shall be as listed below except that, for such sugar processed in Hawaii or Puerto Rico but placed under loan on the mainland of the United States, the applicable loan rate shall be 17.75 cents per pound:

Region	Cents per pound raw sugar value
Florida	17.95
Louisiana	18.44
Texas	18.25
Hawaii	17.66
Puerto Rico	18.20

Note: Molasses is a by-product of sugar processing. It is not included in the calculation of the sugar loan rate.

3. Minimum Price Support Levels

Based on the established regional loan rates, the minimum price support levels for sugar beets and sugarcane of average quality processed in the indicated regions are as follows:

For 1990 crop sugar beets:

Region (same as in previous beet sugar table)	Support price per net ton
1	[1] $30.00
2	[2] 32.01
3	33.77
4	36.54
5	33.70
6	33.96
7	33.96
8	35.04

[1] If (1) the sugar extracted by a processor from the 1990 crop yields, on the average, less than 223.17 pounds per net ton of sugar beets delivered and accepted by the processor, or (2) the processor's net return on by-products per net ton of sugar beets delivered and accepted by the processor averages less than $7.95 per ton, then the required minimum price support rate per ton of sugar beets will be adjusted. The adjusted rate will be determined by: (a) multiplying $0.2175 (the loan rate per pound less $.0105 considered as fixed marketing expenses) by the average pounds and hundredths of pounds of sugar extracted per ton, (b) adding thereto the net return to the processor on by-products per net ton of sugar beets delivered and accepted, and (c) multiplying the result by 53.1 percent.

[2] If (1) the sugar extracted by a processor from the 1990 crop yields, on the average, less than 256.17 pounds per net ton of sugar beets delivered and accepted by the processor, or (2) the processor's net return on by-products per net ton of sugar beets delivered and accepted by the processor averages less than $6.47 per net ton, then the required minimum price support rate per ton of sugar beets will be adjusted. The adjusted rate will be determined by: (a) multiplying $0.2101 (the loan rate per pound less $.0105 considered as fixed marketing expenses) by the average pounds and hundredths of pounds of sugar extracted per ton, (b) adding thereto the net return to the processor on by-products per net ton of sugar beets delivered and accepted, and (c) multiplying the results by 53.1 percent.

For 1990 crop sugarcane in Florida, $25.78 per ton.

For 1990 crop sugarcane in Louisiana, with a core sampler, $21.98 per gross ton. For 1990 crop sugarcane in Louisiana, without a core sampler, $23.70 per net ton.

For 1990 crop sugarcane in Texas, $19.57 per gross ton.

For 1990 crop sugarcane in Hawaii, $22.97 per net ton.

For 1990 crop sugarcane in Puerto Rico, $17.94 per gross ton.

The prices indicated above must be adjusted for sugar beets or sugarcane of nonaverage quality if the producer and processor have agreed upon a method for such adjustment in the terms and conditions of their marketing contract.

4. Average Quality Sugar Beets and Sugarcane

For 1990 crop sugar beets, "average quality" means sugar beets containing 16.09 percent sucrose.

For 1990 crop sugarcane processed in Florida, "average quality" means sugarcane containing 14.72 percent sucrose in normal juice.

For 1990 crop sugarcane processed in Louisiana with a core sampler, "average quality" means sugarcane which yields 192.71 pounds of raw sugar per gross ton. For 1990 crop sugarcane processed in Louisiana without a core sampler, "average quality" means sugarcane containing 13.37 percent sucrose in normal juice and 84.59 percent purity.

For 1990 crop sugarcane processed in Texas, "average quality" means sugarcane which yields 144.77 pounds of raw sugar per gross ton.

For 1990 crop sugarcane processed in Hawaii, "average quality" means sugarcane which yields 248.88 pounds of raw sugar per gross ton.

For 1990 crop sugarcane processed in Puerto Rico, "average quality" means sugarcane which yields 144.66 pounds of raw sugar per gross ton.

5. Cost Reduction Options

The decision not to implement any cost reduction options as outlined in the Supplementary Information above has been made. The Secretary reserves the right to initiate at a later date any action not previously included but authorized by Section 1009 of the Food Security Act of 1985.

Signed at Washington, DC, on September 27, 1990.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 90-23342 Filed 10-2-90; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

Final Environmental Impact Statement; Old Dominion Electric Cooperative

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final environmental impact statement.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), as lead Federal agency, is issuing a Final Environmental Impact Statement (FEIS) pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. section 4321 *et seq.*), the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), and REA Environmental Policy and Procedures (7 CFR part 1794). This Old Dominion Electric Cooperative (Old Dominion) FEIS is being issued in connection with potential REA financing assistance in connection with construction of 50 percent of the Clover Coal-Fired Generation Project. The Clover Project is proposed as a two-unit 786 MW (net) coal-fired generating station. The U.S. Army Corps of Engineers (Norfolk and Wilmington Districts), U.S. Department of the Interior (Fish and Wildlife Service), and the Virginia Council on the Environment have acted as cooperating agencies during the NEPA process.

FOR FURTHER INFORMATION CONTACT: Mr. Larry A. Belluzzo, Director, Northeast Area—Electric, Room 0241, South Agriculture Building, Rural Electrification Administration, Washington, DC 20250, telephone (202) 382–1420 or Mr. Edward Tatum, Jr., Director of Transmission and Environment, Old Dominion Electric Cooperative, 4201 Dominion Boulevard, Glen Allen, Virginia 23060, telephone (804) 747–0592..

SUPPLEMENTARY INFORMATION: Old Dominion has requested financing assistance from REA in order to construct and operate its share of the Clover Project.

The Clover Project would be located in northeastern Halifax County near the town of Clover. The 713 hectare (1,760 acre) site is adjacent to the Roanoke (Staunton) River. Major components include two 393 MW pulverized coal-fired units, mechanical draft cooling towers, wet limestone flue gas desulfurization system, 32.4 hectare (80 acre) supplemental water storage reservoir, 121 hectare (300 acre) solid waste landfill, and two 5 kilometer (3 mile), 230 kv transmission lines. Coal would be delivered to the site by railroad.

Plant facilities that will be located within the 100-year floodplain of the Roanoke River include the intake and discharge structures and intake pumphouse. Less than 0.4 hectare (1 acre) of 100-year floodplain will be impacted. Activities associated with construction and operation of the project will impact approximately 7.4 hectares (18.4 acres) of wetlands.

Alternatives examined to the proposed project included no action, conservation and land management, purchased power, joint ventures with other utilities and independent power producers, alternative generation technologies, and alternative sites. The other two finalist sites evaluated are Passapatanzy in King George County and Sutherland in Dinwiddie County. Units 1 and 2 are scheduled for commercial operation in 1994 and 1995 respectively. Old Dominion has negotiated an agreement with Virginia Electric and Power Company by which each party will have 50 percent undivided ownership interest in the total Clover Project.

Copies of the FEIS may be examined or obtained from REA or Old Dominion during regular business hours at the addresses provided in this notice.

Copies have been sent to the Federal, State, and local agencies and all recipients of the DEIS. This document has also been sent to the following libraries:

Charlotte County Free Library, Charlotte Courthouse, Virginia 23923.
Appomattox Regional Library, Dinwiddie Station, P.O. Box 480, Dinwiddie, Virginia 23841.
McKenney Public Library, P.O. Box 308, McKenney, Virginia 23872.
Rohoic Public Library, P.O. Box 630–B, Rohoic Station, Route 4, Petersburg, Virginia 23803.
L.E. Smoot Memorial Library, Route 3, King George, Virginia 22485.
Halifax County Public Library, P.O. Box 296, Halifax, Virginia 24558.
Southside Regional Library, Clarksville Branch, P.O. Box 1145, Clarksville, Virginia 23927.
Southside Regional Library, Boydton Branch, P.O. Box 10—Washington Street, Boydton, Virginia 23917.
Southside Regional Library, Butler Memorial Branch, 515 Marshall Street, Chase City, Virginia 23924.
South Boston Public Library, 509 Broad Street, South Boston, Virginia 24592.
Central Rappahannock Library, 1201 Caroline Street, Fredericsburg, Virginia 22401.

Persons, organizations, and agencies wishing to comment should do so in writing within 30 days to REA at the address provided in this notice. The 30-day period will begin on the date of the Environmental Protection Agency's notice of availability in the Federal Register or the date of the notices published for Old Dominion in newspapers of general circulation in the proposed project area, whichever comes later.

All comments received within the 30-day period will be considered in the formulation of final determinations regarding the approval of REA funding of the project. These final determinations will be made in REA's Record of Decision for this project. Agencies, organizations, and individuals who wish to be notified when the Record of Decision is available are requested to notify REA in writing at the address given in this notice of such interest.

Final REA action, pursuant to the proposed Old Dominion project, will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in NEPA and requirements of other relevant environmental statutes, regulations, and Executive Orders have been met.

Dated: September 21, 1990.

George E. Pratt,

Deputy Administator.

[FR Doc. 90–23304 Filed 10–2–90; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Minority Business Development Agency.

Title: 1987 Characteristics of Business Owners Survey.

Form Number: CBO–1 OMB Control Number: N/A.

Type of Request: Extension of the expiration date.

Burden: 175,000 responses; 43,750 reporting hours. Average hours per response is one quarter hour.

Needs and Uses: The information is used to provide a framework for assessing and directing existing Government programs and policies designed to promote the business activities of minorities and women and for planning and managing future programs nad research efforts.

Affected Public: Individuals, and both small and large business.

Frequency: One time.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Gary Waxman, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Gary Waxman, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20530.

Dated: September 27, 1990.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90–23362 Filed 10–2–90; 8:45 am]

BILLING CODE 3510–CW–M

Bureau of Export Administration

Materials Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Materials Technical Advisory Committee will be held October 18, 1990, 10:30 a.m., Herbert C. Hoover Building, room 1629, 14th Street and Constitution Avenue NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to materials or technology.

Agenda: General Session

1. Opening Remarks by the Chairman & Commerce Representative.
2. Introduction of Members and Visitors.
3. Presentation of Papers or Comments by the Public.

Executive Session

4. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control programs and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, in order to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that you forward your public presentation materials two weeks prior to the meeting to the below listed address: Ms. Ruth D. Fitts, U.S. Department of Commerce/BXA, Office of Technology & Policy Analysis, 14th & Constitution Avenue NW., room 4069A, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on April 12, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call Ruth D. Fitts, 202–377–4959.

Dated: September 28, 1990.

Betty A. Ferrell,

Director, Technical Advisory Committee Unit, Office of Technology and Policy Analysis.

[FR Doc. 90–2340 Filed 10–2–90; 8:45 am]

BILLING CODE 3510-DT-M

Foreign-Trade Zones Board

[Docket 38–90]

Proposed Foreign-Trade Zone—Fort Wayne, IN; Application and Public Hearing, Temporary Postponement of Public Hearing

The public hearing for the above case (55 FR 38373, 9/18/90), involving a proposed foreign-trade zone in Fort Wayne, Indiana, that was scheduled for October 12, 1990, is temporarily postponed. A further notice will announce the new date for hearing.

The application is available for public inspection at:

Department of Economic Development, 840 City-County Building, One Main Street, Fort Wayne, Indiana 46802.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW., room 4213, Washington, DC 20230.

Dated: September 26, 1990.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 90–23363 Filed 10–2–90; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A–403–801]

Preliminary Determination of Sales at Less Than Fair Value; Fresh and Chilled Atlantic Salmon From Norway

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that imports of fresh and chilled Atlantic Salmon (salmon) from Norway are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all salmon from Norway, as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by December 11, 1990.

EFFECTIVE DATES: October 3, 1990.

FOR FURTHER INFORMATION CONTACT: Louis Apple, Edward Easton or Tracey Oakes, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377–1769, 377–1778, or 377–3174, respectively.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that imports of salmon from Norway are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated weighted-average margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since publication of the notice of initiation on March 28, 1990 (55 FR 11418), the following events have occurred. On April 25, 1990, the ITC published its determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Norway of fresh and chilled Atlantic salmon (55 FR 17507).

On April 30, 1990, the Department presented its questionnaires to counsel for eight exporters that accounted for more than 60% of the imports of Norwegian salmon into the U.S. during the period of investigation: Sea Star International A/S, Skaarfish Floro Fryseri A/S, Fremstad Group A/S, Chr. Bjelland Seafoods A/S, R. Domstein & Co., Hallvard Leroy A/S, Saga A/S, and Salmonor A/S. In addition, the Department submitted questionnaires to counsel for three Norwegian organizations: Norske Fiskeoppdretternes Forening, Norske Fiskeoppdretternes Salgsleg, and Norges Ferskfiskomselnings Landsforening. On May 16, 1990, the Department received responses to Section A of the questionnaire from the eight exporters and complete responses from the Norwegian organizations. On July 27, 1990, the Department received responses to sections B & C of the questionnaire from the eight exporters.

On August 3, 1990, petitioner alleged that sales below cost of production were being made. On August 21, 1990, the Department delivered cost of production questionnaires to 11 fishfarmers who reportedly supplied the eight exporters with the subject merchandise during the period of investigation. Responses to the cost questionnaires, which are due September 28, 1990, will be analyzed prior to making the final determination.

On or about September 11, 1990, respondents submitted revised computer tapes in response to our deficiency questionnaires. Those tapes were formatted incorrectly, and the respondents again submitted revised computer tapes on September 13, 1990. Those computer tapes were used in the analysis for all respondents except Hallvard Leroy, whose tape was again formatted incorrectly. Respondent Hallvard Leroy submitted a new computer tape on September 21, 1990, which was not received in time to be used in the preliminary determination, but which may be used in the final determination. For the purposes of this preliminary determination, we used the first computer tape submitted by Hallvard Leroy adjusted for values submitted in its deficiency response.

Scope of Investigation

The product covered by this investigation is the species Atlantic salmon (Salmo salar) marketed as specified herein; the subject merchandise excludes all other species of salmon: Danube salmon; Chinook (also called "king" or "quinnat"); Coho ("silver"); Sockeye ("redfish" or "blueback"); Humpback ("pink"); and Chum ("dog"). Atlantic salmon is a whole or nearly-whole fish, typically (but not necessarily) marketed gutted, bled, and cleaned, with the head on. The subject merchandise is typically packed in fresh-water ice ("chilled"). Excluded from the subject merchandise are fillets, steaks, and other cuts of Atlantic salmon. Also excluded are frozen, canned, smoked or otherwise processed Atlantic salmon. Atlantic salmon is currently provided for under the following Harmonized Tariff Schedule (HTS) subheading: 0302.12.00.02.9.

Period of Investigation

The period of investigation is September 1, 1989 through February 28, 1990.

Such or Similar Comparisons

For the purpose of this investigation we have determined that all salmon comprises a single category of such or similar merchandise. Product

comparisons were made on the basis of the following criteria: (1) Whole or gutted; (2) grade of salmon (superior, ordinary, or production); and (3) weight (kg.).

Fair Value Comparisons

To determine whether sales of salmon from Norway to the United States were made at less than fair value, we compared the United States price to the foreign market value, as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

For all companies, we based the United States price on purchase price, in accordance with section 772(b) of the Act, because all sales were made directly to unrelated parties prior to importation into the United States.

We calculated purchase price based on airpacked, c.i.f. prices to unrelated customers in the United States. We made deductions, where appropriate, for airfreight, brokerage and handling, foreign inland freight, export credit insurance, discounts, inland/marine insurance and Norwegian export duties, in accordance with section 772(d)(2) of the Act.

Foreign Market Value (FMV)

In order to determine whether there were sufficient sales of salmon in the home market to serve as the basis for calculating FMV, we compared the volume of home market sales to the volume of third country sales, in accordance with section 773(a)(1) of the Act. Only one of the respondents, Hallvard Leroy, had a viable home market. For the other seven respondents, the volume of home market sales was less than five percent of the aggregate volume of third country sales. Therefore, for these seven companies, we determined that home market sales did not constitute a viable basis for calculating FMV.

In accordance with § 353.49(b) of the Department's regulations, for the seven companies with non-viable home markets, we chose the third country market with the most similar merchandise to that sold in the United States and the greatest volume of sales. For six of the seven companies, the largest third country market also had identical comparisons to subject merchandise sold in the United States. For one company, Chr. Bjelland, we chose the third country market with the most identical comparisons, West Germany, over the country with the largest volume of sales, France.

We made deductions, where appropriate, for foreign inland freight, brokerage and handling, inland/marine insurance, credit, Norwegian export duties, export credit insurance, third country import duties, export licensing fees, warranties, discounts and rebates.

A. Salmonor A/S

United States Price

We calculated purchase price based on airpacked, c.i.f. prices to unrelated customers in the United States. We made deductions, where appropriate, for airfreight, inland/marine insurance, and Norwegian export duties, in accordance with section 772(d)(2) of the Act.

Foreign Market Value

We determined that sales to The Netherlands were the most appropriate basis for calculating FMV. We calculated FMV based on the c.i.f. prices to unrelated customers in The Netherlands. We made deductions, where appropriate, for inland freight, inland insurance, Norwegian export duties, export credit insurance, and rebates. Because all comparisons involved purchase price sales, we made circumstance of sale adjustments, where appropriate, for differences in credit and warranty expenses.

B. Sea Star International

United States Price

We calculated purchase price based on airpacked, c.i.f. prices to unrelated customers in the United States. We made deductions, where appropriate, for airfreight, inland/marine insurance, and Norwegian export duties, in accordance with section 772(d)(2) of the Act.

Foreign Market Value

We determined that sales to France were the most appropriate basis for calculating FMV. We calculated FMV based on the C.i.f. prices to unrelated customers in France. We made deductions, where appropriate, for inland freight, inland insurance, Norwegian export duties, export credit insurance, and handling. Because all comparisons involved purchase price sales, we made circumstance of sale adjustments, where appropriate, for the difference in credit expenses. Since commissions were included in the weighted average FMV calculation but were not paid on U.S. sales, we allowed an offset amounting to the lesser of indirect selling expenses incurred in the U.S. market or the average third country commission, in accordance with § 353.56(b) of the Department's regulations.

C. Skaarfish Mowi A/S

United States Price

We calculated purchase price based on airpacked, c.i.f. prices to unrelated customers in the United States. We made deductions, where appropriate, for airfreight, inland/marine insurance, discounts, foreign inland freight, and Norwegian export duties, in accordance with section 772(d)(2) of the Act. We recalculated export duties based on f.o.b. prices.

Foreign Market Value

We determined that sales to France were the most appropriate basis for calculating FMV. We calculated FMV based on c.i.f., duty paid prices to unrelated purchasers in France. We made deductions, where appropriate, for foreign inland freight, handling, inland insurance, Norwegian export duties and French import duties. Because all comparisons involved purchase price sales, we made circumstance of sale adjustments, where appropriate, for differences in credit and warranty expenses. Where commissions were paid on U.S. sales and not in the third country market, we allowed an offset amounting to the lesser of the average indirect selling expenses incurred in the third country or the U.S. commission, in accordance with § 353.56(b) of the Department's regulations.

D. Fremstad Group A/S

United States Price

We calculated purchase price based on airpacked, c.i.f. prices to unrelated customers in the United States. We made deductions, where appropriate, for airfreight, inland/marine insurance, Norwegian export duties and discounts, in accordance with section 772(d)(2) of the Act. We recalculated export duties based on f.o.b. prices.

Foreign Market Value

We determined that sales to West Germany were the most appropriate basis for calculating FMV. We calculated FMV based on c.i.f. prices to unrelated purchasers in West Germany. We made deductions, where appropriate, for inland freight and brokerage, inland insurance, Norwegian export duties, and discounts. We recalculated export duties based on f.o.b. prices. Because all comparisons involved purchase price sales, we made circumstance of sale adjustments, where appropriate, for differences in credit and warranty expenses.

R. Domstein and Co.

United States Price

We calculated purchase price based on airpacked, c.i.f. prices to unrelated customers in the United States. We made deductions, where appropriate, for airfreight, inland/marine insurance, discounts, foreign inland freight, brokerage and handling, and Norwegian export duties, in accordance with section 772(d)(2) of the Act. We recalculated export duties based on f.o.b. prices.

Foreign Market Value

We determined that sales to France were the most appropriate basis for calculating FMV. We calculated FMV based on c.i.f. prices to unrelated purchasers in France. We made deductions, where appropriate, for foreign inland freight, inland/marine insurance and Norwegian export duties. Because all comparisons involved purchase price sales, we made circumstance of sale adjustments for differences in credit and warranty expenses. On sales where commissions were included in the weighted average FMV, we deducted third country commissions and added U.S. commissions in accordance with § 353.56(b) of the Department's regulations. Despite our request in the questionnaire and the deficiency letter, respondent failed to provide information on U.S. indirect expenses. Therefore, if commissions were included in the weighted average FMV calculation and were not paid on the corresponding U.S. sales, then we deducted the average third country commission from FMV and added the average third country commission as the offset as the best information available (BIA). If commissions were paid on the U.S. sales and were not included in the sales used in calculating the weighted average FMV as BIA, then we added the U.S. Commission to FMV and made no offset, because no indirect selling expenses were reported by Domstein.

F. Saga A/S

United States Price

We calculated purchase price based on airpacked, c.i.f. prices to unrelated customers in the United States. We made deductions, where appropriate, for airfreight, inland/marine insurance, discounts, foreign inland freight, brokerage and handling, and Norwegian export duties in accordance with section 772(d)(2) of the Act. We recalculated export duties based on f.o.b. prices.

Foreign Market Value

We determined that sales to France were the most appropriate basis for calculating FMV. We calculated FMV based on c.i.f. prices to unrelated purchasers in France. We made deductions, where appropriate, for foreign inland freight, foreign brokerage and handling, inland/marine insurance, Norwegian export duties, and export licensing fees. Because all comparisons involved purchase price sales, we made circumstance of sale adjustments, where appropriate, for differences in credit and warranty expenses. We recalculated reported credit expenses using Saga's claimed interest rate and the average number of days from shipment date to payment date. On sales where discounts were granted, we deducted the discounts from the gross price before recalculating credit. Since commissions were included in the weighted average FMV calculation and were not paid on U.S. sales, we allowed an offset amounting to the lesser of U.S. indirect selling expenses or the average third country commission, in accordance with 353.56(b) of the Department's regulations.

G. Chr. Bjelland

United States Price

We calculated purchase price based on airpacked, c.i.f. prices to unrelated customers in the United States. We made deductions, where appropriate, for airfreight, inland/marine insurance, Norwegian export duties and export credit insurance, in accordance with section 772(d)(2) of the Act. We recalculated export duties based on f.o.b. prices.

Foreign Market Value

We determined that sales to West Germany were the most appropriate basis for calculating FMV. We calculated FMV based on the c.i.f. prices to unrelated customers in West Germany. We made deductions, where appropriate, for inland freight, inland insurance, and Norwegian export duties. We recalculated export duties based on f.o.b. prices. Because all comparisons involved purchase price sales, we made circumstances of sale adjustments, where appropriate, for differences in credit expenses and export credit insurance. We recalculated U.S. credit expense using Bjelland's domestic interest rate for sales to West Germany to impute credit, consistent with Departmental practice. Where commissions were paid on U.S. sales and not in the third country, we allowed an offset amounting to the lesser of the average indirect selling expenses incurred in the third country, or the U.S. commission, in accordance with § 353.56(b) of the Department's regulations.

H. Hallvard Leroy A/S

United States Price

We calculated purchase price based on airpacked, c.i.f. prices to unrelated customers in the United States. We made deductions, where appropriate, for airfreight, inland/marine insurance, and Norwegian export duties and export licensing fees, in accordance with section 772(d)(2) of the Act. We recalculated the export duty based on f.o.b. prices.

Foreign Market Value

Since Hallvard had a viable home market, we calculated FMV based on c.i.f. and f.o.b. prices to unrelated customers in Norway. We made deductions, where appropriate, for inland freight, and inland insurance. Because all comparisons involved purchase price sales, we made circumstance of sale adjustments, where appropriate, for the difference in credit expenses which we recalculated using the actual period between shipment date and payment date.

Currency Conversion

When calculating foreign market value, we made currency conversions in accordance with § 353.60 of our regulations (19 CFR 353.60), using the exchange rates certified by the Federal Reserve Bank of New York.

Verification

As provided in section 776(b) of the Act, we will verify all information used in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of salmon from Norway except those from Sea Star International, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs service shall require a cash deposit or posting of a bond, except for Sea Star International, equal to the estimated preliminary dumping margin, as shown below. The suspension of liquidation will remain in effect until further notice.

Manufacturer/Producer/Exporter	Margin percentage
Salmonor A/S	1.90
Sea Star International	[1].13
Skaarfish Mowi A/S	1.66
Fremstad Group A/S	2.53
R. Domstein and Co.	4.76
Saga A/S	4.33
Chr. Bjelland	4.90
Hallvard Leroy A/S	3.11
All Others	2.96

[1] DeMinimis.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If our final determination is affirmative, the ITC will determine whether these imports are materially injuring or threaten material injury to the U.S. industry before the later of 120 days after the date of the preliminary determination or 45 days after our final determination.

Public Comment

In accordance with section 353.38 of the Department's regulations (19 CFR 353.38), case briefs or other written comments in at least ten copies must be submitted no later than November 13, 1990, and rebuttal briefs no later than November 15, 1990. In accordance with § 353.38(b) of the Department's regulations (19 CFR 353.38(b)), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. The hearing will be held on November 19, 1990, at 9:30 a.m. at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Interested parties who wish to participate in the hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B-099 within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In accordance with § 353.38(b) of the Department's regulations, oral presentations will be limited to arguments raised in the briefs.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)) and § 353.15 of the regulations (19 CFR 353.15).

Dated: September 26, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-23364 Filed 10-2-90; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council's Swordfish Stock Assessment Review Panel, consisting of one South Atlantic Council staff member, one outside scientist appointed by each of the five Regional Fishery Management Councils involved in the development of the Swordfish Fishery Management Plan, and two National Marine Fisheries Service (NMFS) scientists appointed by the NMFS Southeast Fisheries Center (SEFC), will hold a public meeting on October 9-10, 1990, at the NMFS SEFC in Miami, Florida. The meeting will begin at 1 p.m., on October 9 and will adjourn on October 10 at noon. The Panel will determine the appropriate values for allowable biological catch (ABC) and total allowable catch (TAC), based on the swordfish stock assessment recently completed by the International Commission for the Conservation of Atlantic Tuna (ICCAT). The Panel also will estimate the swordfish bycatch of the tuna fishery for 1990.

For more information contact Carrie Knight, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, suite 306, Charleston, SC 29407, telephone: (803) 571-4366.

Dated: September 27, 1990.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-23381Filed 10-2-90; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Pakistan

September 27, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATES: October 4, 1990.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialists, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6498. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Categories 347/348 is being reduced to account for carryforward used during the previous agreement period.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 48293, published on November 22, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 27, 1990.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive of November 16, 1989 issued to you by the Chairman, Committee for the Implementation of Textile Agreements. That directive

concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1990 and extends through December 31, 1990.

Effective on October 4, 1990, you are directed to reduce to 364,914 dozen [1] the limit for Categories 347/348, as provided under the terms of the current bilateral agreement between the Governments of the United States and Pakistan.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

[1] The limit has not been adjusted to account for any imports exported after December 31, 1989.

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-23359 Filed 10-2-90; 8:45 am]

BILLING CODE 3510-DR-M

Textile and Apparel Categories With the Harmonized Tariff Schedule of the United States: Changes to the 1990 Correlation

September 28, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Changes to the 1990 Correlation.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Lori E. Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-3400.

The Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (1990) presents the Harmonized Tariff Schedule numbers under each of the cotton, wool, man-made fiber, silk blend and other vegetable fiber categories used by the United States in monitoring imports of these textile products and in the administration of the bilateral agreement program. The attached list includes some Harmonized Tariff Schedule numbers that have been published in the second supplement of the Harmonized Tariff Schedule of the United States (1990). The Correlation should be amended to reflect the changes indicated below:

Category	Changes in the 1990 Correlation
331	Delete 6216.00.3810. Add 6216.00.3811—Gloves, mittens and mitts, other than impregnated, coated or covered with plastics or rubber, of cotton, other than ice hockey and field hockey gloves and ski or snowmobile gloves, without fourchettes. Delete 6216.00.3820. Add 6216.00.3821—Gloves, mittens and mitts, other than impregnated, coated or covered with plastics or rubber, of cotton, other than ice hockey, field hockey and ski or snowmobile gloves, with fourchettes.
369	Delete 6406.10.7560 Add 6406.10.7700—Parts of footwear; removable insoles, heel cushions and similar articles, etc., of cotton, other than uppers of which less than 50% of the external surface area is textile materials.
410	Delete 5111.11.1000. Add 5111.11.3000—Woven fabrics of carded wool or carded fine animal hair, containing 85% or more by weight of wool or of fine animal hair, of a weight not exceeding 300 g/m2, hand-woven, with a loom width of less than 76 cm. Delete 5111.11.6030. Add 5111.11.7030—Woven fabrics of carded wool or of carded fine animal hair, other than hand-woven, with a loom width of less than 76 cm, wholly or in part of fine animal hair. Delete 5111.11.6060. Add 5111.11.7060—Woven fabrics of carded wool or of carded fine animal hair, other than hand-woven, with a loom width of less than 76 cm, other than wholly or in part of fine animal hair. Delete 5111.20.6000 Add 5111.20.6001—Woven fabrics of carded wool or carded fine animal hair, mixed mainly or solely with man-made filaments, other than containing 85% or more by weight of wool or of fine animal hair. Delete 5111.30.6000. Add 5111.30.6001—Woven fabrics of carded wool or of carded fine animal hair other than containing 85% or more by weight of wool or of fine animal hair, mixed mainly or solely with man-made staple fibers. Delete 5111.90.6000. Add 5111.90.7000—Woven fabrics of carded wool or of carded fine animal hair containing 30% or more by weight of silk or silk waste, valued over $33/kg. Delete 5112.11.0030. Add 5112.11.2030—Woven fabrics of combed wool or of combed fine animal hair containing 85% or more by weight of wool or of fine animal hair, of a weight not exceeding 200 g/m2, wholly or in part of fine animal hair. Delete 5112.11.0060. Add 5112.11.2060—Woven fabrics of combed wool or of combed fine animal hair, containing 85% or more by weight of wool or of fine animal hair, of a weight not exceeding 200 g/m2, wholly or in part of fine animal hair. Delete 5112.19.6010. Add 5112.19.6011—Woven fabrics of combed wool or of combed fine animal hair, containing 85% or more by weight of wool or of fine animal hair, other than of a weight not exceeding 200 g/m2, wholly or in part of fine animal hair, weighing not more than 270 g/m2. Delete 5112.19.6020. Add 5112.19.6021—Woven fabrics of combed wool or of fine animal hair, containing 85% or more by weight of wool or of fine animal hair, wholly or in part of fine animal hair, weighing not more than 270 g/m2 but not more than 340 g/m2. Delete 5112.19.6040. Add 5112.19.6041—Woven fabrics of combed wool or of fine animal hair, other than wholly or in part of fine animal hair, containing 85% or more by weight of wool or fine animal hair, weighing more than 270 g/m2. Delete 5112.19.6050. Add 5112.19.6051—Woven fabrics of combed wool or of fine animal hair, other than wholly or in part of fine animal hair, containing 85% or more by weight of wool or of fine animal hair, weighing more than 270 g/m2 but not more than 340 g/m2. Delete 5112.20.0000. Add 5112.20.3000—Other woven fabrics of combed wool or of combed fine animal hair mixed mainly or soley with man-made filaments. Delete 5112.30.0000.

Category	Changes in the 1990 Correlation
	Add 5112.30.3000—Woven fabrics of combed wool or of combed fine animal hair, mixed mainly or soley with man-made staple fibers.
	Delete 5112.90.6010.
	Add 5112.90.6011—Woven fabrics of combed wool or combed fine animal hair, containing 30% or more by weight of silk or silk waste, valued over $33/kg, mixed mainly or soley with cotton.
	Delete 5112.90.6090.
	Add 5112.90.6091—Woven fabrics of combed wool or combed fine animal hair, other than containing 30% or more by weight of silk or silk waste, valued over $33/kg, other than mixed mainly or soley with cotton.
414	Add 5111.20.1000—Woven fabrics of carded wool or of fine animal hair, mixed mainly or solely with man-made filaments, tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m2.
	Add 5111.11.2000—Woven fabrics of carded wool or of carded fine animal hair, containing 85% or more by weight of wool or of fine animal hair, of a weight not exceeding 300 g/m2, tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m2.
	Add 5111.30.1000—Woven fabrics of carded wool or of carded fine animal hair, mixed mainly or solely with man-made staple fibers, tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m2.
	Add 5111.90.4000—Woven fabrics of carded wool or of carded fine animal hair, other than containing 30% or more by weight of silk or silk waste, and other than being valued over $33/kg, tapestry fabrics and upholstery fabrics of a weight exceeding 300 g/m2.
	Add 5111.90.5000—Woven fabrics of carded wool or of carded fine animal hair, other than contsining 30% or more by weight of silk or silk waste and other than being valued over $33/kg, tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m2.
	Add 5112.11.1000—Woven fabrics of combed wool or of combed fine animal hair, containing 85% or more by weight of wool or of fine animal hair, of a weight not exceeding 200 g/m2. Tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m2.
	Delete 5112.19.1000.
	Add 5112.19.1001—Woven fabrics of combed wool or of combed fine animal hair, containing 85% or more by weight of wool or fine animal hair, tapestry fabrics and upholstery fabrics of a weight not exceeding 300 g/m2.
	Add 5112.20.1000—Other woven fabrics of combed wool or of combed fine animal hair, mixed mainly or solely with man-made filaments, tapestry fabrics and upholstery fabrics of a weight exceeding 300 g/m2.
	Add 5112.20.2000—Other woven fabrics of combed wool or of combed fine animal hair, mixed mainly or solely with man-made filaments, tapestry fabrics and upholstery fabrics of a weight exceeding 140 g/m2.
	Delete 5112.30.0500.
	Add 5112.30.1000—Woven fabrics of combed wool or of combed fine animal hair, mixed mainly or solely with man-made staple fibers, tapestry fabrics and upholstery fabrics of a weight exeeding 300 g/m2.
	Add 5112.30.2000—Woven fabrics of combed wool or of combed fine animal hair mixed mainly or solely with man-made staple fibers, tapestry of a weight not exceeding 140 g/m2.
	Add 5112.90.4000—Woven fabrics of combed wool or of combed fine animal hair, other than mixed mainly or solely with man-made staple fibers, tapestry fabrics and upholstery fabrics of a weight exceeding 300 g/m2.
	Add 5112.90.5000—Woven fabrics of combed wool or of combed fine animal hair, other than mixed mainly or solely with man-made staple fibers, tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m2.
	Delete 5803.90.1000.
	Add 5803.90.1100—Gauze, other than narrow fabrics of heading 5806, of other textile materials, of wool or fine animal hair, tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m2.
	Add 5803.90.1200—Gauze, other than narrow fabrics of heading 5806, of other textile materials, of wool or fine animal hair, other than tapestry fabrics and upholstery fabrics of a weight not exceeding 140 g/m2.
469	Delete 6406.10.8020.
	Add 6406.10.9020—Parts of footwear; removable insoles, heel cushions and similar articles, uppers and parts thereof, other than stiffeners of textile materials, other than cotton, of wool or fine animal hair.
631	Delete 6116.93.2010.
	Add 6116.93.2011—Gloves, mittens and mitts, knitted or crocheted, other than impregnated, coated or covered of plastics or rubber, of synthetic fibers, other than containing 23% or more by weight of wool or fine animal hair, without fourchettes.
	Delete 6116.93.2020.
	Add 6116.93.2021—Gloves, mittens and mitts, knitted or crocheted, other than impregnated, coated or covered with plastics or rubber, of synthetic fibers, other than containing 23% or more by weight of wool or fine animal hair, with fourchettes.
	Delete 6116.99.6020.
	Add 6116.99.6021—Gloves, mittens and mitts, knitted or crocheted, other than impregnated, coated or covered with plastics or rubber, of other textile materials, of artificial fibers, other than ice hockey, field hockey, ski or snowmobile gloves, mittens and mitts, without fourchetts.
	Delete 6116.99.6040.
	Add 6116.99.6041—Gloves, mittens and mitts, knitted or crocheted, other than impregnated, coated or covered with plastics or rubber, of other textile materials, of artificial fibers, other than ice hockey, field hockey, ski or snowmobile gloves, mittens and mitts, with fourchetts.
669	Delete 6406.10.8040.
	Add 6406.10.9040—Parts of footwear; removable insoles, heel cushions and similar articles, uppers and parts thereof other than stiffeners, of textile materials other than cotton, of man-made fibers.
800	Delete 5006.00.0090.
	Add 5006.00.9000—Silk yarn and yarn spun from silk waste, put up for retail sale; silkworm gut; other than containing 85% or more by weight of silk or silk waste.
899	Delete 6406.10.8060.
	Add 6406.10.9060—Parts of footwear; removable insoles, heel cushions and similar articles, uppers and parts thereof, other than stiffeners, of textile materials other than cotton, wool or fine animal hair, or man-made fibers.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-23360 Filed 10-2-90; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 90-79-NG]

Corpus Christi Gas Marketing, Inc.; Application to Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of Application for Blanket Authorization to Export Natural Gas to Mexico.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on September 10, 1990, of an application filed by Corpus Christi Gas Marketing, Inc. (CCGM) requesting blanket authorization to export from the United States to Mexico up to 145 Bcf of natural gas over a two-year period commencing with the date of first delivery. CCGM intends to use existing pipeline facilities within the United States and at the international border for transportation of the exported gas. CCGM states that it will advise the DOE of the date of first delivery and submit quarterly reports detailing each transaction

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., November 2, 1990.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Xavier Puslowski, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–4708.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 3E–042, FE–50, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: CCGM is a Texas corporation with its principal place of business in Corpus Christi, Texas. CCGM intends to export natural gas to Mexico for spot market sales both for its own account as well as for the accounts of others. The gas to be exported will be supplied by producers primarily in the state of Texas. The Mexican purchasers of the gas are expected to include, but are not limited to, commercial and industrial end-users and local distribution companies. CCGM states that all export sales will result from arms-length negotiations and that prices will be determined by market conditions.

This export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangements. Parties opposing this arrangement bear the burden of overcoming this assertion.

All parties should be aware that if this blanket export application is granted, the authorization may permit the export of the gas at any point of exit on the international border where existing pipeline facilities are located.

CCGM requests that an authorization be granted on an expedited basis. Except in emergency circumstances, 10 CFR 590.205(a) of FE's administrative procedures provides for a public comment period of not less than 30 days. CCGM does not indicate any emergency circumstances that would justify expedited consideration. Accordingly, a decision on the application will not be made until all responses to this notice have been received and evaluated.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notices of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to

this notice, in accordance with 10 CFR 590.316.

A copy of CCGM's application is available for inspection and copying in the Office of Fuels Programs Docket Room, Room 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on September 27, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–23407 Filed 10–2–90; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. CP90–2255–000, et. al.]

Columbia Gulf Transmission Co. et al.; National Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Columbia Gulf Transmission Co.

[Docket No. CP90–2255–000]

September 24, 1990.

Take notice that on September 19, 1990, Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama, Houston, Texas 77027, filed in Docket No. CP90–2255–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of System Supply for End Users, Inc. (SSEU), under Columbia Gulf's blanket certificate issued in Docket No. CP86–239–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia Gulf proposes to transport, on an interruptible basis, up to 30,000 MMBtu per day for SSEU. Columbia Gulf states that construction of facilities would not be required to provide the proposed service.

Columbia Gulf further states that the maximum day, average day, and annual transportation volumes would be approximately 30,000 MMBtu, 10,000 MMBtu and 3,650,000 MMBtu respectively.

Columbia Gulf advises that service under § 284.223(a) commenced July 1, 1990, as reported in Docket No. ST90–3824–000.

Comment date: November 8, 1990, in accordance with Standard Paragraph G at the end of this notice.

Florida Gas Transmission Co.

[Docket No. CP90–2253–000 [1], Docket No. CP90–2254–000]

September 24, 1990.

Take notice that Florida Gas Transmission Company (FGT), P.O. Box 1188, Houston, Texas 77251, filed in the above referenced dockets, prior notice requests pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by FGT and is included in the attached appendix.

FGT also states that each would provide the service for each shipper under an executed transportation agreement, and that FGT would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: November 8, 1990, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket No.	Applicant	Shipper name	Peak Day,[1] Avg., Annual	Points of—		Start-up date, rate schedule, service type	Related dockets [2]
				Receipt	Delivery		
CP90–2253–000	FGT	Nortech Energy Corp	25,000 18,750 9,125,000	Various	Various	8–2–90, ITS–1, Interruptible.	CP89–555–001, ST90–4551–000
CP90–2254–000	FGT	Citrus Industrial Sales Company.	400,000 300,000 146,000,000	Various	Various	8–3–90, ITS–1, Interruptible.	CP89–555–001, ST90–4550–000

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

Natural Gas Pipeline Co. of America

[Docket No. CP90–2200–000]

September 24, 1990.

Take notice that on September 14, 1990, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP90–2200–000 a request pursuant to §§ 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for permission and approval to abandon certain facilities in Harrison County, Texas under Natural's blanket certificate issued in Docket No. CP82–402–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the the request which is on file with the Commission and open to public inspection.

By order issued January 12, 1976, in consolidated Docket Nos. CP74–286–000 and CP75–198–000, the Commission issued to Natural a limited term-certificate of public convenience and necessity, with pre-granted abandonment, authorizing the sale of gas to Arkansas Louisiana Gas Company (Arkla) under Rate Schedule X–65 and another certificate of public convenience and necessity authorizing the construction and operation of facilities necessary to effectuate the sale. Natural advises that sales under the certificate authority terminated in September of 1977 and that the Commission was notified to terminate its Rate Schedule X–65 on September 15,

1977. Because it has no alternative use for the facilities authorized to effectuate the subject sale, Natural now seeks to abandon them in place. Natural states that the facilities include 1,441 feet of 4½ inch lateral pipeline, one 3-inch measuring station and one 3-inch side tap, all located in Harrison County, Texas. Natural estimates that the proposed abandonment would cost $7,000. Lastly, Natural asserts that none of its customers would be affected by this proposal.

Comment date: November 8, 1990, in accordance with Standard Paragraph G at the end of this notice.

Natural Gas Pipeline Company of America

[Docket No. CP90–2201–000]

September 24, 1990.

Take notice that on September 14, 1990, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP90–2201–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authority to operate an existing delivery point, and associated delivery facilities, as a sales tap under Natural's blanket certificate issued in Docket No. CP82–402–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the the request which is on file with the Commission and open to public inspection.

Natural states that it seeks authorization to operate an existing delivery point to B&F Operating Company (B&F), a natural gas producer, as a sales tap to provide jurisdictional services, including transportation services pursuant to subpart G of part 284 of the Commission Regulations. Natural explains that it is currently providing interruptible transportation services at this delivery point under Rate Schedule ITS, pursuant to subpart B of part 284 of the Commission's Regulations and that it has received a request to provide firm transportation at this delivery point under Rate Schedule FTS, pursuant to subpart G of part 284 of the Commission's Regulation. Natural explains further that the instant authorization is sought so that it can provide a requested self-implementing sales service at this delivery point under its Rate Schedule IS–1. Natural asserts that it has sufficient capacity to provide this service at the delivery point interconnecting with B&F without detriment or disadvantage to Natural's peak day and annual delivery capability. Lastly, Natural advises that, based on typical operating pressures, the maximum daily delivery capacity of the delivery point is 2,000 Mcf.

Comment date: November 8, 1990, in accordance with Standard Paragraph G at the end of this notice.

Columbia Gulf Transmission Co., Columbia Gulf Transmission Co., United Gas Pipe Line Co.

[Docket No. CP90–2219–000, Docket No. CP90–2220–000, Docket No. CP90–2222–000]

September 24, 1990.

Take notice that Columbia Gulf Transmission Company, 3805 West Alabama, Houston, Texas 77027, and United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77251–1478, (Applicants), filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued in Docket No. CP86–239–000 and Docket No. CP88–6–000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: November 8, 1990, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

Docket No. (Date filed)	Shipper name (Type)	Peak day, average day, annual MMBtu	Receipt points [1]	Delivery points	Contract date, rate schedule, service type	Related docket, start-up date
CP90-2219-000 (9-17-90)	Elf Aquitaine, Inc. (Marketer).	30,000 10,000 10,950	OLA, LA	LA	7-14-89, ITS-1, 2, Interruptible.	ST90-4387, 8-14-90
CP90-2220-000 (9-17-90)	Shell Gas Trading Company (Marketer).	55,000 20,000 20,075,000	OLA, LA	LA	5-26-87, ITS-1, 2, Interruptible.	ST90-4477, 8-11-90
CP90-2222-0000 (9-17-90).	Equitable Resources Marketing Company (Marketer).	257,500 257,500 93,987,500	OLA, LA, TX, MS	LA, OTX	8-17-89, ITS-1, 2, Interruptible.	ST90-4718, 5-29-90

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.

Transwestern Pipeline Co., Transcontinental Gas Pipe Line Corp., El Paso Natural Gas Co.

[Docket No. CP90-2237-000, Docket No. CP90-2238-000, Docket No. CP90-2240-000, Docket No. CP90-2241-000, Docket No. CP90-2242-000, Docket No. CP90-2243-000]

September 25, 1990.

Take notice that the above referenced companies (Applicants) filed in respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[3]

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants also states that each would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: November 9, 1990, in accordance with Standard Paragraph G at the end of this notice.

[3] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper name	Peak day,[1] avg., annual	Points of—		Start-up date, rate schedule	Related dockets [2]
				Receipt	Delivery		
CP90-2237-000, 9-18-90.	Transwestern Pipeline Co.	Mar Oil and Gas Corp.	20,000 15,000 7,300,000	AZ, OK, NM, TX.	TX, OK, NM, AZ.	8-1-90, ITS-1	ST90-4468-000
CP90-2237-000, 9-18-90.	Transwestern Pipeline Co.	Arco Natural Gas Marketing, Inc.	50,000 37,500 18,250,000	AZ, OK, NM, TX.	TX, AZ	8-2-90, ITS-1	ST90-4466-000
CP90-2240-000, 9-18-90.	Transcontinental Gas Pipe Line Corporation.	Natural Gas Clearinghouse, Inc.	600,000 20,000 219,000,000	On TX, Off TX, On LA, Off LA, MS, PA.	On LA, On TEX, NJ.	8-1-90, IT	ST90-4519-000
CP90-2241-000, 9-18-90.	El Paso Natural Gas Company, 9-18-90.	Enron Gas Marketing, Inc.	198,842 198,842 72,577,330	All on System	AZ, CA, CO, NM, OK, TX.	8-1-90, T-1	ST90-4345-000
CP90-2242-000, 9-18-90.		Gas Mark, Inc	8,034 5,150 1,879,750	All on System	AZ	8-1-90, T-1	ST90-4341-000
CP90-2243-000, 9-18-90.		ARCO Natural Gas Marketing, Inc.	30,900 30,900 11,278,500	All on System	NM	8-8-90, T-1	ST90-4428-000

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

Tennessee Gas Pipeline Co.

[Docket No. CP90-2213-000]

September 25, 1990.

Take notice that on September 17, 1990, Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77252 (Tennessee), filed in docket No. CP90-2213-000 a prior notice request pursuant to §§ 157.205 and 284.212 of the Commission's Regulations under the Natural Gas Act (NGA), for authorization to add a delivery point for Altresco Pittsfield, L. P. (Altresco) under its blanket certificate issued at Docket No. CP82-413-000 pursuant to section 7 of the NGA, all as more fully set forth in the prior notice request which is on file with the Commission and open to public inspection.

Tennessee states that by Commission order issued May 2, 1990, in Docket Nos. CP88-171-000 and CP88-171-001, *et al.*, Tennessee was authorized, inter alia, to transport up to 31,500 Dth of natural gas

per day for Altresco. As stated in the May 2, 1990 order, the gas is to be received by Tennessee from TransCanada PipeLines Limited (TransCanada) at the Niagara import point and transported and delivered by Tennessee to Berkshire Gas Company (Berkshire) for further transportation and delivery by Berkshire to the Altresco cogeneration project in Pittsfield, Massachusetts.

It is further stated that, the point of delivery of gas by Tennessee to Berkshire was established to be at a point on Tennessee's main line where Tennessee had previously installed hot taps and DAC facilities under § 284.3(c) of the Commission's regulations.

It is stated that the total quantities to be delivered to Berkshire would not exceed presently authorized quantities and the change is not prohibited by Tennessee's existing tariff. Tennessee states that it has sufficient capacity in its system to accomplish delivery of the additional gas to the West Pittsfield delivery point without detriment or disadvantage to any other customer.

Tennessee states that it requests authorization to add the West Pittsfield delivery point as a delivery point to deliver a maximum daily quantity of 31,500 Dth to Berkshire for the account of Altresco consistent with the authorization issued by the Commission order on May 2, 1990, in Docket Nos. CP88-171-000 and CP88-171-001, *et al.*

Comment date: November 9, 1990, in accordance with Standard Paragraph G at the end of this notice.

Florida Gas Transmission Co., Florida Gas Transmission Co., Florida Gas Transmission Co., Florida Gas Transmission Co., Tennessee Gas Pipeline Co., Texas Eastern Transmission Corp.

[Docket No. CP90-2247-000, Docket No. CP90-2248-000, Docket No. CP90-2249-000, Docket No. CP90-2250-000, Docket No. CP90-2251-000, Docket No. CP90-2252-000]

September 25, 1990.

Take notice that the above referenced companies (Applicants) filed in respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[4]

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants also states that each would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: November 9, 1990, in accordance with Standard Paragraph G at the end of this notice.

[4] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper Name	Peak day,[1] avg., annual	Points of—		Start-up date, rate schedule	Related dockets [2]
				Receipt	Delivery		
CP90-2247-000, 9-19-90.	Florida Gas Transmission Company, 1400 Smith St., Houston, TX 77002.	Pennzoil Gas Marketing Co.	25,000 18,750 9,125,000	TX, LA, MS, AL, FL, Off TX.	TX, LA	8-1-90, ITS-1	CP89-555-000, ST90-4436-000
CP90-2248-000, 9-19-90.	do	Panhandle Trading Co.	125,000 93,750 45,625,000	TX, LA, MS, AL, FL, Off TX.	TX, LA, MS, AL, FL.	8-2-90, ITS-1	CP89-555-000, ST90-4541-000
CP90-2249-000, 9-19-90.	do	Brooklyn Interstate Natural Gas Corporation.	50,000 37,500 18,250,000	TX, LA, MS, AL, FL, Off TX.	TX, LA, MS, AL.	8-1-90, ITS-1	CP89-555-000, ST90-4439-000
CP90-2250-000, 9-19-90.	do	Shell Gas Trading Co	75,000 56,250 27,375,000	TX, LA, MS, AL, FL, Off TX.	TX, LA, MS	8-1-90, ITS-1	CP89-555-000, ST90-4447-000
CP90-2251-000, 9-19-90.	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77252.	Ocean State Power	60,000 60,000 21,900,000	MA, NJ, RI, NY, PA.	MA, NJ, RI, NH, CT, NY, PA.	8-17-90, IT	CP87-115-000, ST90-4545-000
CP90-2252-000, 9-19-90.	Texas Eastern Transmission Corporation, 5400 Westheimer Court, Houston, TX 77252.	Access Energy Corporation.	50,000 50,000 18,250,000	LA, Off LA, AL, AR, IL, IN, KY, MO, MS, NJ, NY, OH, PA, TN, TX, WV.	Off OA, NJ	7-12-90, IT-1	CP88-136-000, ST90-4090-000

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

Green Canyon Pipe Line Co., Northern Natural Gas Co., Division of Enron Corp., United Gas Pipe Line Co., United Gas Pipe Line Co., United Gas Pipe Line Co., United Gas Pipe Line Co.

[Docket No. CP90-2258-000, Docket No. CP90-2259-000, Docket No. CP90-2260-000, Docket No. CP90-2261-000, Docket No. CP90-2262-000, Docket No. CP90-2263-000]

September 25, 1990.

Take notice that Applicants filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued to Applicants pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[5]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix A. Applicants' addresses and transportation blanket certificates are shown in the attached appendix B.

Comment date: November 9, 1990, in accordance with Standard Paragraph G at the end of this notice.

[5] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points [1]	Delivery points	Contract date, rate schedule, service type	Related docket, start-up date
CP90-2258-000 (9-21-90)	Enron Gas Marketing, Inc. (Marketer).	100,000 40,000 [2] 36,500,000	OLA	OLA	6-8-90, IT, Interruptible	ST90-4355-000, 8-4-90
CP90-2259-000 (9-21-90)	MidCon Marketing Corporation (Marketer).	300,000 25,000 109,500,000	OK, TX, KS, IA, IND.	TX, KS	8-1-90, IT-1, Interruptible	ST90-4273-000, 8-1-90
CP90-2260-000 (9-21-90)	International Paper Company (End user).	8,240 8,240 3,007,600	OLA, MS, LA	LA	2-25-88, ITS, Interruptible [3].	ST90-4390-000, 7-20-90
CP90-2261-000 (9-21-90)	International Paper Company (End user).	4,635 4,635 1,691,775	LA	MS	7-1-90, FTS, Firm [3]	ST90-4427-000, 8-1-90
CP90-2262-000 (9-21-90)	Louisiana State Gas Corporation (Intra P/L).	309,000 309,000 112,785,000	Various	Various	10-1-88, ITS, Interruptible [3].	ST90-4564-000, 8-23-90
CP90-2263-000 (9-21-90)	LL&E Gas Marketing, Inc. (Marketer).	20,600 20,600 7,519,000	LA, MS	LA, MS	10-3-88, ITS, Interruptible [3].	ST90-4563-000, 8-16-90

[1] Offshore Louisiana is shown as OLA.
[2] Green Canyon's quantities are in dekatherms.
[3] As amended.

Applicant's address	Blanket docket
Green Canyon Pipe Line Company, P.O. Box 1396, Houston, Texas 77251.	CP89-515-000
Northern Natural Gas Company, Division of Enron Corp., 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188.	CP86-435-000
United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77251-1478.	CP88-6-000

El Paso Natural Gas Co.

[Docket No. CP90-2214-000]

September 25, 1990.

Take notice that on September 17, 1990, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas, 79978, filed an application in Docket No. CP90-2214-000, under sections 7(b) and 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity under the optional certificate procedures, subpart E of part 157 of the Commission's Regulations. El Paso requests authorization for: (i) The construction and operation of additional facilities on its San Juan Triangle, San Juan Mainline and Permian-San Juan Crossover Systems to provide incremental capacity for new transportation service under its blanket transportation certificate and (ii) conditional pre-granted abandonment of the facilities and related transportation services. El Paso's proposal is more fully set forth in the application which is on file with the Commission and open to public inspection.

El Paso states that in the event that the Commission is unable to issue a single order addressing both non-environmental and environmental issues, El Paso requests the issuance of a phased determination of non-environmental and environmental issues, in order that it may proceed with necessary administrative and purchasing activities to facilitate commencement of construction at the earliest possible date. In any event, El Paso requests approval of its proposal by December 31, 1990.

Specifically, El Paso states it is seeking a certificate of public convenience and necessity authorizing the construction and operation of facilities to provide: (i) 835,000 Mcf/d of incremental pipeline capacity on its San Juan Triangle System; (ii) 400,000 Mcf/d of incremental pipeline capacity on its San Juan Mainline System; and (iii) for the bi-directional flow of natural gas on El Paso's Permian-San Juan Crossover System, all to accommodate a new transportation service through El Paso's expanded interstate transmission system.

El Paso estimates that the total capital cost of the proposed expansion is $241.5 million. This includes facilities costing $233.3 million for which El Paso is specifically seeking authorization in this application and auxiliary installations costing $8.2 million which El Paso states will be constructed under § 2.55 (a) of the Commission's Regulations. El Paso

plans to place the proposed facilities in service by Spring, 1992, assuming shipper subscriptions are sufficient and that regulatory authorizations are in place.

El Paso claims that in order to add 835,000 Mcf/d of firm, new capacity on its San Juan Triangle System, it must construct and operate approximately 54 miles of pipeline loop, additional compression facilities totalling 12,000 horsepower, and additional metering facilities on that system.

El Paso also states it intends to construct and operate approximately 178 miles of pipeline loop, additional compression facilities totalling 23,516 horsepower, and additional metering equipment on the San Juan Mainline System in order to render a new firm incremental transportation service of 400,000 Mcf/d on its San Juan Mainline System westward from the San Juan Triangle System to the terminus of its San Juan Mainline System at the Arizona-California border near Topock, Arizona.

El Paso states that following this construction, it will be able to effect increased deliveries at or near Topock, Arizona to existing California natural gas distribution systems, as well as to the facilities to be constructed and operated by Mojave Pipeline Company (Mojave).

El Paso is also proposing to construct new metering facilities on its Permian-San Juan Crossover System and make certain changes to the compressor piping at its existing Caprock, Lincoln, and Belen Compressor Stations to transport some 429,000 Mcf/d on a firm basis eastward from its expanded San Juan Basin System to its Plains Compressor Station for further transportation to eastern and midwestern United States markets. El Paso states that as reconfigured, these facilities will allow El Paso to flow gas either eastward or westward on this part of its system.

El Paso also states that is does not seek specific authorization to transport gas through its proposed facilities for specific shippers. Rather, El Paso intends to render firm transportation services pursuant to a new rate schedule under the provisions of its blanket transportation certificate issued in Docket No. CP88-433-000.

El Paso states its proposed new incremental firm transportation service will be offered under the provisions of proposed Rate Schedule T-5, which is to be contained in its FERC Gas Tariff, First Revised Volume No. 1-A, and will incorporate, as applicable, the general terms and conditions contained in that tariff. El Paso states that its proposed two-part firm rate which is embodied in El Paso's proposed new firm Rate Schedule T-5 is consistent with the requirements of section 157.103 of the Commission's Regulations. El Paso states that the rates are cost-based and have prescribed maximum and minimum levels.

El Paso will offer a separate Transportation Service Agreement for each of the segments identified in its application, *i.e.*, Blanco to Topock and Blanco to Plains in accordance with the proposed terms and provisions of Rate Schedule T-5. The proposed initial rate for the Blanco to Topock service consists of a Monthly Reservation Charge with a minimum of $0.00 and a maximum of $8.6688, and a Usage Charge which has a minimum of $0.0002 and a maximum of $0.3691. The proposed initial rate for the Blanco to Plains service consists of a Monthly Reservation Charge with a minimum of $0.00 and a maximum of $4.6644, and a Usage Charge which has a minimum of $0.0001 and a maximum of $0.1693.

El Paso states that new incremental firm transportation service will be available to prospective shippers based on El Paso's existing firm transportation log. El Paso proposes that in the event that the aggregate volumes of firm incremental transportation service sought by prospective shippers exceeds the incremental capacity which El Paso proposes to add to its system through this application, El Paso will give preference to those shippers, in the order they appear in the log, who provide assurance that gas will, in fact, flow under their contracts, as evidenced by the Shipper's demonstration of an existing entitlement to receive firm transportation service from the downstream pipeline or the local distribution system which will receive the shipper's gas that El Paso proposes to deliver.

El Paso further notes that on August 31, 1990, it filed an application to amend its blanket transportation certificate issued at Docket No. CP88-433-000 to allow for brokering of firm capacity on El Paso's existing and proposed incremental facilities. El Paso proposes that this capacity brokering program will be available to shippers contracting for incremental firm capacity under the proposed Rate Schedule T-5 on such terms and conditions as are ultimately approved by the Commission.

El Paso states it will continue to provide interruptible service in accordance with existing Rate Schedule T-1 of its FERC Gas Tariff, First Revised Volume No. 1-A. El Paso states that interruptible service will be offered from time to time, based on the availability of capacity, to those shippers that have executed a transportation agreement consistent with Rate Schedule T-1, and in accordance with the shipper's position on El Paso's interruptible transportation queue. In providing Rate Schedule T-1 service, El Paso does not propose to make any distinction between existing capacity and the additional capacity which El Paso proposes to add to its system by this application.

El Paso further states that in the event of a facility outage or other event which prevents the full use of El Paso's facilities at design capacity, the allocation of available capacity among firm customers shall be *pro rata* based on each such customer's confirmed quantities, not to exceed contract demand, to total confirmed quantities which are affected by the capacity constraints. In making such allocation, El Paso does not propose to make any distinction between existing capacity and the additional capacity which El Paso proposes to add to its system by this application, or between shippers receiving service under Rate Schedule T-3 and those shippers receiving service under Rate Schedule T-5.

El Paso states that it has chosen to offer its new firm transportation service on an incremental rate basis, reflecting the complete cost of the new facilities plus an allocated portion of existing costs. Consequently, El Paso says it can insure, as the optional certificate regulations require, that none of the risk of investment in the new service will fall on the existing customers. El Paso further claims that because the rates are set on an incremental basis and reflect the actual cost of the proposed service, prospective shippers can more accurately gauge their market alternatives, and El Paso will be able to obtain, prior to construction, a precise measure of shipper needs.

El Paso notes it has used the depreciation component of its presently effective rates, and a return component as detailed in its application. El Paso further notes that the proposed rates do not differentiate between seasonal peak and off-peak service, but do reflect the distance of haul and are designed for deliveries at Topock and Plains. Because this is an entirely new service without any history, El Paso believes that this is the most reasonable basis upon which to devise rates.

El Paso states that its proposed facilities consist entirely of pipeline looping, metering facilities, and the addition of compressor units at certain of its existing compressor stations. El Paso claims that this type of

construction has a limited impact on the environment because it takes place in an existing utility corridor. El Paso states that the environmental impact of construction and operation of many of the facility additions proposed in this application have already been reviewed by the Commission in the Final Environmental Impact Report/Statement (FEIR/S) adopted by the Commission with respect to the Kern River Gas Transmission Company and Mojave projects in Docket Nos. CP85–522–000 and CP85–437–000. El Paso states that this FEIR/S addressed, *inter alia*, the facility additions to El Paso's San Juan Mainline System proposed at Docket Nos. CP86–197–000 & 001. El Paso states the prior Commission findings concerning the FEIR/S apply to this proposal as well, because the same or similar facilities are part of this application.

However, El Paso states that the proposed facilities not previously reviewed by the Commission are specifically addressed in El Paso's environmental exhibits filed with its application, together with material associated with previously evaluated facilities. El Paso states that the proposed facilities not previously reviewed by the Commission will be constructed in areas that are environmentally comparable to, and in most cases adjacent to, the specific segments of line reviewed in the FEIR/S.

El Paso claims that the proposed facilities are required by the present and future public convenience and necessity in order to provide El Paso with incremental capacity necessary to accommodate anticipated growth in the availability of natural gas in the San Juan Basin producing area, and otherwise to permit El Paso to serve increasing end user demands in California and other markets, including off-system markets. El Paso states that its proposal will serve a national security interest by relieving capacity constraints which are and will continue to restrain the delivery of available domestically-produced natural gas to U.S. consumers.

El Paso asserts that the need for increased pipeline capacity in the San Juan Triangle has arisen because of major new reserve additions, most particularly of coal seam gas, in the San Juan Basin producing area. El Paso states that the proposed San Juan Triangle expansion is designed to provide the additional firm transportation capacity which is needed to accommodate this increased production capability. El Paso claims that the additional facilities will permit the receipt of incremental volumes from the San Juan Basin for transportation and delivery to markets both in El Paso's traditional California service area and to the east of El Paso's system. El Paso further claims that such facility additions will also significantly increase the operational flexibility and reliability of El Paso's system generally, to the benefit of all of El Paso's customers including users of its existing system.

El Paso states that given the worldwide energy situation which exists, the proposed project offers substantial, assured benefits to the United States as a whole in terms of enhancing national energy security. El Paso claims that its incremental capacity expansion will facilitate the movement of large new supplies of domestic natural gas to markets throughout the United States. El Paso says, it will do this by eliminating current and projected capacity constraints which otherwise will increasingly inhibit the production and delivery of gas from one of the Nation's most important producing areas, the San Juan Basin.

El Paso states that when completed, the project will permit the transportation and delivery of additional San Juan Basin volumes equivalent to approximately 138,000 barrels per day of oil, which in turn will serve to reduce the need for an equivalent amount of oil imports. El Paso further states that the additional revenues which San Juan Basin producers will realize through the marketing of these incremental volumes will also be available to finance domestic exploration and development which will further increase the Nation's energy resource base.

Comment date: October 16, 1990, in accordance with Standard Paragraph F at the end of the notice.

Transcontinental Gas Pipe Line Corp.

[Docket Nos. CP90–2228–000, CP90–2229–000 and CP72–255]

September 25, 1990.

Take notice that on September 17, 1990, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed applications in Docket Nos. CP90–2228, CP90–2229 and CP72–255. Transco filed the application in conjunction a negotiated settlement (Settlement) that was concurrently filed in Docket Nos. CP88–391, *et al.* In the Docket Nos. CP88–391, *et al.*, proceedings, Transco is seeking authorization for a restructuring of its sales and transportation services and to implement a Gas Inventory Charge. In Docket No. CP90–2228 Transco filed an application, pursuant to sections 7(b) and 16 of the Natural Gas Act, as amended, and the Rules and Regulations of the Federal Energy Regulatory Commission, for authorization that would approve abandonment of certain sales service and certain rate schedules, all as more fully set forth in the application which is on file with the Commission and open to public inspection. Specifically, Transco states that it desires to abandon service to its customers under Rate Schedules CD and IFS. The requested abandonment authorizations, according to Transco, would implement a negotiated provision of the Settlement between Transco and its customers, which was filed concurrently herewith in Docket Nos. CP88–391, *et al.* Transco states that such service is no longer needed in view of the service to be offered under the new FS Rate Schedule proposed in its Settlement. Transco further states that the Rate Schedules CD and IFS themselves should also be abandoned.

Docket No. CP90–2229 was filed by Transco, pursuant to section 7(c) of the Natural Gas Act, seeking a certificate of public convenience and necessity to establish an Optional Firm Service (OFS) Rate Schedule and to provide service to OFS customers under the terms described therein. Transco states that it requests certificate authority to provide OFS service on an unbundled basis to its historical sales customers which intend to use all or a portion of their permanent conversion firm transportation (FT) entitlements to transport to their city gate delivery points OFS gas purchased from Transco on mutually agreeable, individually negotiated terms.

Docket No. CP72–255 was also filed pursuant in section 7(c) of the Natural Gas Act. By this instant filing Transco seeks to amend the certificate of public convenience and necessity issued in Docket No. CP72–255 on September 21, 1972, *Transcontinental Gas Pipe Line Corporation*, 48 FPC 573 (1972), which authorized Transco to provide liquefied natural gas (LNG) service under Rate Schedule LG–S to Transco's CD, G, and OG Rate Schedule customers. Transco states that it seeks to amend the certificate to obtain Commission authorization to permit Rate Schedule LG–S customers to receive LNG service without requirement that such customer be purchasing gas from Transco. As an alternative to such purchase requirement, Transco seeks to allow a customer to arrange for a concurrent delivery of natural gas to Transco using transportation services under Transco's Rate Schedule IT or FT. Transco states

that the natural gas to be concurrently delivered may be gas purchased either from third parties or Transco under Transco's Rate Schedule FS or IS.

Comment date: October 11, 1990, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90-23321 Filed 10-2-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ-90-3-27-002]

North Penn Gas Co., Proposed Changes in FERC Gas Tariff

September 26, 1990.

Take notice that North Penn Gas Company (North Penn) on September 24, 1990 tendered for filing First Revised Sheet No. 3A to its FERC Gas Tariff First Revised Volume No. 1.

The revised tariff sheet is being filed in compliance with the FERC order of August 27, 1990 in the above referenced Docket and sets forth North Penn's Quarterly PGA proposed to be effective September 1, 1990. The filing reflects an increase in the average cost of gas for the G-1 Rate Schedule of $.97 per Mcf.

North Penn has not removed CNG standby cost from this filing. North Penn has filed a Request for Rehearing and Clarification of the FERC letter order dated August 27, 1990 in TQ90-3-27-000, requesting clarification that North Penn need not wait for a later PGA proceeding to recover standby charges but may include such charges as a separate component in this PGA.

North Penn will file as part of its filing in TA90-1-27, in compliance with the FERC letter order dated August 29, 1990, tariff sheets containing language including pipeline standby charges as a separate component.

North Penn has not increased its Tennessee Gas Pipeline Company's contract demand volume as provided for in the August 27, 1990 letter order in the instant proceeding. As set forth in its Request for Rehearing and Clarification of that order, North Penn believes that the FERC made an obvious error in requiring North Penn to develop rates based on a certified purchase obligation that was automatically abandoned pursuant to Commission regulations.

While North Penn believes that no other waivers are necessary in order to permit this filing to become effective September 1, 1990, as proposed, North Penn respectfully requests waiver of any of the Commission's Rules and Regulations as may be required to permit this filing to become effective September 1, 1990, as proposed.

North Penn states that copies of this letter of transmittal and all enclosures are being mailed to each of North Penn's jurisdictional customers and State Commissions shown on the attached service list.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 4, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-23320 Filed 10-2-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TC90-9-000 et al.]

Northern Natural Gas Co. et al. Tariff Sheet Filings

September 26, 1990.

Take notice that the following pipelines [1] have filed revised tariff sheets to become effective November 1, 1990, pursuant to § 281.204(b)(2) of the Commission's Regulations, which requires interstate pipelines to update their respective index of entitlements annually to reflect changes in priority 2 entitlements (Essential Agricultural Users).

[1] Addresses of the pipelines are listed in the appendix hereto.

Pipeline and Docket No.	
(1) Northern Natural Gas Co., TC90-9-000, Filed: September 6, 1990	Index of large volume consumer classifications as reviewed and approved by the data verification committee commencing with the 1990-91 heating season.
(2) Williams Natural Gas Co., TC90-12-000, Filed: September 14, 1990	Second Revised Sheet Nos. 110-112.
(3) Mississippi River Transmission Corp., TC90-11-000, Filed: September 14, 1990.	Third Revised Sheet No. 113. Second Revised Sheet No. 114 of FERC Gas Tariff, Original Volume No. 1. First Revised Sheet No. 92. First Revised Sheet No. 93. First Revised Sheet No. 95.
(4) Columbia Gas Transmission Corp., TC90-14-000, Filed: September 14, 1990	First Revised Sheet No. 96 of FERC Gas Tariff, Second Revised Volume No. 1. First Revised Sheet No. 270. First Revised Sheet No. 271. First Revised Sheet No. 272. First Revised Sheet No. 273. First Revised Sheet No. 274. First Revised Sheet No. 276. First Revised Sheet No. 277. First Revised Sheet No. 278. First Revised Sheet No. 279. First Revised Sheet No. 280. First Revised Sheet No. 281. First Revised Sheet No. 282. First Revised Sheet No. 283. First Revised Sheet No. 284. First Revised Sheet No. 285. First Revised Sheet No. 286. First Revised Sheet No. 287. First Revised Sheet No. 288. First Revised Sheet No. 289. First Revised Sheet No. 290. First Revised Sheet No. 291. First Revised Sheet No. 292. First Revised Sheet No. 293. First Revised Sheet No. 294. First Revised Sheet No. 295. First Revised Sheet No. 296. First Revised Sheet No. 297. First Revised Sheet No. 298. First Revised Sheet No. 299. First Revised Sheet No. 300. First Revised Sheet No. 301. First Revised Sheet No. 302. First Revised Sheet No. 303. First Revised Sheet No. 304. First Revised Sheet No. 305. Original Sheet No. 306 of FERC Gas Tariff, First Revised Volumen No. 1.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filings should on or before October 9, 1990, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois Cashell,

Secretary.

Appendix

Mississippi River Transmission Corp., 9900 Clayton Road, St. Louis, Missouri 63124.

Williams Natural Gas Co., P.O. Box 3288, Tulsa, Oklahoma 74101.

Northern Natural Gas Co., 2223 Dodge Street, Omaha, Nebraska 68102.

Columbia Gas Transmission Corp., 1700 MacCorkle Ave, SE., P.O. Box 1273, Charleston, West Virginia 25325-1273.

[FR Doc. 90-23322 Filed 10-2-90; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3849-9]

Region IX; Rescission of Prevention of Significant Deterioration (PSD) Permit

In the matter of PSD Permit E-4-3 NSR SFB 78-03 issued to:

Kaiser Cement Corporation
Permanente Cement Plant
Permanente, California

On December 26, 1978, the U.S. Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) Permit to the applicant named above for approval to construct a modernization of the cement plant by

(1) Replacing the wet process facilities with dry process facilities of equal capacity, and

Converting the plant's primary fuel from oil to coal.

Section 52.21(w)(2), (3) of the PSD regulations amended on August 7, 1980, states that any owner or operator of a stationary source or modification who holds a permit for the source or modification which was issued under 40 CFR 52.21, as in effect on June 19, 1978, may request that the Administrator rescind the permit, if the applicant shows that the PSD regulations, as amended on August 7, 1980, would not apply to the source or modification.

Having received Kaiser's request for rescission, EPA has reconsidered the PSD permit issued for the Permanente plant modernization and has determined that the modernization has been made subject to a federally enforceable limitation on the potential of the

modernized facility to emit (40 CFR 52.21 (b)(4)) such that the modernization resulted in no net increase in emissions within the meaning of the PSD regulations and that, therefore, the modernization project was not subject to PSD requirements. Therefore, EPA has rescinded the PSD permit by Settlement Agreement dated September 17, 1990.

This PSD action is reviewable under section 307(b)(1) of the Clean Air Act in the Ninth Circuit Court of Appeals. A petition for review must be filed with the Ninth Circuit on or before 60 days from date of publication in the **Federal Register.**

This determination and related background information are available for public inspection at the U.S. Environmental Protection Agency, New Source Section, 1235 Mission Street, San Francisco, California, 94103.

Dated: September 19, 1990.

David P. Howekamp,

Director, Air and Toxics Division, Region 9.

[FR Doc. 90-23391 Filed 10-2-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3850-2]

Public Water System Supervision Program Revision for the State of South Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Public notice is hereby given in accordance with the provisions of section 1413 of the Safe Drinking Water Act as amended, 42 U.S.C. 300f et seq., and 40 CFR 142.10, the National Primary Drinking Water Regulations, that the State of South Dakota has revised its approved Public Water System Supervision (PWSS) Primacy Program. South Dakota has developed: (1) Drinking water regulations for eight volatile organic chemicals that correspond to the National Primary Drinking Water Regulations for eight volatile organic chemicals promulgated by EPA on July 8, 1987 (52 FR 25690); and (2) public notice regulations that correspond to the revised EPA public notice requirements promulgated on October 28, 1987 (52 FR 41534). EPA has determined that these State program revisions are no less stringent than the corresponding federal regulations and has approved these State program revisions. This determination shall become effective November 2, 1990 and was based upon a thorough evaluation of South Dakota's PWSS program which has met the requirements stated in 40 CFR 142.10.

South Dakota's PWSS program, as presented and evaluated, has indicated that it is fully capable of carrying out all of the areas required to achieve primary enforcement capability.

Any interested parties are invited to submit written comments on this determination, and may request a public hearing on or before November 2, 1990. If a public hearing is requested and granted, this determination shall not become effective until such time following the hearing that the Regional Administrator issues an order affirming or rescinding this action.

Requests for a public hearing should be addressed to: James J. Scherer, Regional Administrator, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, CO 80202-2405.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request is made within thirty (30) days after this notice, a public hearing will be held.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing; and (3) the signature of the individual making the requests, or, if the request is made on behalf of an organization or other entity, the signature of the responsible official of the organization or other entity.

Notice of any hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. Such notice will be made by the Regional Administrator in the **Federal Register** and in newspapers of general circulation in the State of South Dakota. A notice will also be sent to the person(s) requesting the hearing as well as to the State of South Dakota. The hearing notice will include a statement of purpose, information regarding time and location, and the address and telephone number where interested persons may obtain further information. The Regional Administrator will issue an order affirming or rescinding his determination upon review of the hearing record. Should the determination be affirmed, it will become effective as of the date of the order.

Should no timely and appropriate request for a hearing be received, and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective on November 2, 1990.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

ADDRESSES: All documents relating to this determination are available for inspection at the following locations: U.S. EPA Region VIII Regional Library, 999 18th Street, Denver, Colorado 80202-2405, between the hours of 10 a.m. and 4 p.m. (MST), Mon.-Fri. and the SD Department of Water and Natural Resources, Office of Drinking Water, Joe Foss Building, Pierre, South Dakota 57501-3181, between the hours of 8 a.m. and 5 p.m. (CST), Mon.-Fri.

FOR FURTHER INFORMATION CONTACT: David Schmidt, EPA Region VIII, Public Water Supply Program Section (8WM-DW) at the Denver address given above, telephone (303) 293-1415, (FTS) 330-1415.

Dated: September 26, 1990.

Kerrigan G. Clough,

Acting Regional Administrator, EPA, Region VIII.

[FR Doc. 90-23394 Filed 10-2-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

September 26, 1990.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW; suite 140, Washington, DC 20037. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact Bruce McConnell, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-3785.

OMB Number: 3060-0194.

Title: Section 74.21, Broadcasting emergency information.

Action: Extension.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: On occasion.

Estimated Annual Burden: 2 responses; .5 hours average burden per response; 1 hour total annual burden.

Needs and Uses: Section 74.21 requires that a licensee of an auxiliary broadcast station notify the FCC in Washington, DC, as soon as practicable, in the event of an emergency where the station is operated in a manner other than that for which it is authorized. This notification shall specify the nature of the emergency and the use to which the station is being put. The licensee shall also notify the FCC when the emergency operation has been terminated. The notifications are used by FCC staff to evaluate the need and nature of the emergency broadcast to confirm that an actual emergency existed.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-23405 Filed 10-2-90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC, Office of the Federal Maritime Commission, 1100 L Street NW., Room 10220. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in §§ 560.602 and/or 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No: 224-003597-005.

Title: Puerto Rico Ports Authority and Trailer Marine Transport Corporation Terminal Lease Agreement.

Parties: Puerto Rico Ports Authority, Trailer Marine Transport Corporation.

Filing Party: Mayra N. Cruz Alvarex, Contract Supervisor, Apartado 2829, San Juan, Puerto Rico 00936-2829.

Synopsis: The agreement amends the basic agreement to (1) reduce 19,846.48 square feet of leased area located at Hangar 20 (formerly Hangar 22); (2) adjust the monthly rental; (3) increase the security fee for the payment of rentals and other charges from $100,000.00 to $148,272.15; and (4) establish a new penalty clause in the amount of $4,942.40 per day.

By Order of the Federal Maritime Commission.

Dated: September 28, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-23412 Filed 10-2-90; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200294-002.

Title: Georgia Ports Authority/ Japanese Three Lines Terminal Agreement.

Parties: Georgia Ports Authority, Japanese Three Lines.

Synopsis: The Agreement provides a corrected revised schedule of rates in accordance with the terms of the basic agreement. The Agreement provides a consolidated rate for wharfage, dockage, crane rental, land use and stevedoring use fee; as well as, specific rates for rail loading and unloading; daily reefer charge; receiving and delivery to/from motor carrier and special service moves; stack utilization charge; and terminal inventory data fee.

By Order of the Federal Maritime Commission.

Dated: September 28, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-23413 Filed 10-2-90; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90N-0254]

Cytokine and Growth Factor Pre-pivotal Trials Information Package; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of an information package for cytokine and growth factor pre-pivotal trials. The information package will assist sponsors in preparing for meetings with representatives of the Center for Biologics Evaluation and Research (CBER) before the development of pivotal studies.

DATES: Written comments may be submitted at any time.

ADDRESSES: Submit written requests for single copies of the information package to the Congressional, Consumer, and Internal Affairs Staff, Center for Biologics Evaluation and Research (HFB-142), Food and Drug Administration, Park Bldg., Rm. 158, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist that office in processing your request. Submit written comments on the information package to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. Copies of the information package and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Andrea Chamblee, Center for Biologics Evaluation and Research (HFB-130), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-295-8188.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of an information package to assist sponsors of experimental cytokines, growth factors, and similar products in preparing for meetings with CBER. Many of these agents are developed rather rapidly, with early initiation of clinical efficacy trials. In addition, many of these products are being studied as therapy for life-threatening or severely debilitating illnesses. Subpart E (21 CFR

part 312) of the regulations governing investigational new drug applications (21 CFR 312.80 through 312.88) describes procedures for expedited development of products intended for the treatment of such illnesses. Under these procedures, when appropriate, product development can move rapidly from early safety testing into clinical trials intended to demonstrate effectiveness.

Accelerated development programs can create challenges for manufacturers. Before initiation of efficacy trials to support licensure ("pivotal trials"), issues of product manufacture, specifications, and formulation should be resolved so that the product used in pivotal trials will be manufactured and formulated in essentially the same way as the planned licensed product.

FDA strongly recommends that sponsors meet with CBER before initiating pivotal trials. The meeting would often be an end of "Phase 2" meeting, but could be conducted at an earlier stage, including the end of "Phase 1" under the new subpart E procedures (see 21 CFR 312.21, 312.47 and 312.82). During such a meeting, it is generally expected that a summary of manufacturing methods and controls, and animal and in vitro testing results will be presented and that any outstanding issues will be discussed. The plan for pivotal trials should be presented, and issues of trial design should be discussed. At these meetings, CBER staff will provide advice and guidance to sponsors. If appropriate, outside expert consultants or advisory committee members may be involved on consulted on unresolved issues. A primary goal of these meetings is for CBER and sponsors to reach agreement on the design of trials which would be adequate to provide sufficient data on safety and effectiveness to support a decision on the approvability of a product for marketing.

To assist sponsors of cytokine, growth factor, and similar products in preparing for such meetings, CBER has developed this information package. This package does not present new information, but summarizes certain available information and directs attention to regulations, "Points to Consider" documents, and other related documents that are pertinent to development of such products.

The current regulations, guidelines, "Points to Consider" documents, and other related documents referenced in the information package may be obtained from the Congressional and Public Affairs Staff (HFB-140) (address above).

Specifically, the information package provides information regarding manufacturing and product controls, animal studies, and clinical studies. The package also contains attachments including lists of: (1) "Points to Consider" and other related documents, (2) interim reference reagents for human cytokines, and (3) testing procedures to be considered for cytokine and growth factor products.

The recommendations included in this information package are not requirements. A manufacturer may choose to use alternative procedures even though they are not described in the information package. A manufacturer who wishes to use other procedures is encouraged to discuss the matter with the agency. Interested persons are encouraged to use this opportunity to submit comments on the information package if they have suggestions. The comments will be reviewed by FDA to determine whether the material provided should be revised or if additional information should be included in the information package.

Requests for a single copy of the information package should be sent to the Congressional and Public Affairs Staff (address above).

Interested persons may, at any time, submit written comments on the information package to the Dockets Management Branch (address above). Such comments will be considered in determining whether further revisions to this information package are warranted. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The information package and received comments may be seen in the Dockets Management Branch at the times and days listed above.

Dated: September 26, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-23406 Filed 10-2-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90N-0291]

Drug Export; Abbott HIVAB HIV-1/HIV-2 (rDNA) EIA

AGENCY: Food and Drug Administration HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Abbott Laboratories has filed an application requesting approval for the export of the biological product Abbott HIVAB HIV-1/HIV-2 (rDNA) EIA to Australia, Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Finland, France, Iceland, Ireland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, and The United Kingdom.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Carl J. Chancey, Center for Biologics Evaluation and Research (HFB-124), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

SUPPLEMENTARY INFORMATION: The drug export provision in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the Federal Register within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Abbott Laboratories, Diagnostics Division, Abbott Park, IL 60064, has filed an application requesting approval for the export of the biological product Abbott HIVAB HIV-1/HIV-2 (rDNA) EIA to Australia, Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Finland, France, Iceland, Ireland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, and The United Kingdom. The Abbott HIVAB HIV-1/HIV-2 (rDNA) EIA is an in vitro recombinant DNA (rDNA) enzyme immunoassay (EIA) for the simultaneous detection of antibodies to Human Immunodeficiency Viruses Type 1 and/or Type 2 (HIV-1/HIV-2) in human serum or plasma. The application was received and filed in the Center for Biologics Evaluation and Research on

July 11, 1990, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by October 15, 1990, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and udner authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated under 21 CFR 5.44.

Dated: September 18, 1990.

P. Michael Dubinsky,

Acting Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 90-23346 Filed 10-2-90; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Reconsideration of Disapproval of Texas State Plan Amendment (SPA); Hearing

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of Hearing.

SUMMARY: This notice announces an administrative hearing on November 6, 1990, in Room 1950, 1200 Main Tower, Dallas, Texas 75202 to reconsider our decision to disapprove Texas State Plan Amendment 90-13.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk October 18, 1990.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, HCFA Hearing Staff, Suite 110, Security Office Park, 7000 Security Blvd., Baltimore, Maryland 21207, Telephone: (301) 967-3015.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove Texas State Plan amendment (SPA) number 90-13.

Section 1116 of the Social Security Act (the Act) and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

Texas SPA 90-13 contains a list of obstetrical and pediatric payment rates and data alleging at least 50 percent of obstetrical and pediatric practitioners are full Medicaid participants.

The issue in this matter is whether the plan amendment complies with section 1926 and 1902(a)(30)(A) of the Act.

Section 1926 of the Act as added by section 6402 of the Omnibus Budget Reconciliation Act of 1989 (OBRA 89), Public Law 101-239, requires that by no later than April 1 of each year (beginning in 1990), States are to submit plan amendments specifying their payment rates for obstetrical practitioner services and pediatric practitioner services. States are also to provide specific information to document that those payment rates are sufficient to enlist enough providers such that obstetrical and pediatric services are available to Medicaid recipients at least to the extent that such services are available to the general population in the geographic area (section 1902(a)(30)(A) of the Act).

OBRA 89 was passed on December 19, 1989, and HCFA is developing its final policy concerning what is required to determine that the State is in compliance with section 1902(a)(30)(A) of the Act. HCFA has, however, initially determined that for obstetrical and pediatric rate SPA's to be approval, they must include the following:

1. Payment rates for this year and next year (i.e. 1990 and 1991) for those obstetrical and pediatric services covered under the State plan. Pediatric rates must be specified by procedure and HCFA recommends the same format be followed for obstetrical services.

2. Data that document that payment rates for obstetrical and pediatric services are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area; and

3. Data that document that payment rates to Health Maintenance Organizations under 1903(m) of the Act take into account the payment rates specified in number 1 above.

HCFA has also developed several guidelines that, if met by the State, would evidence that the State meets the statutory requirements of section 1926 of the Act. These guidelines are set forth in a draft State Medicaid manual revision dated March 26, 1990.

Based upon the data submitted, HCFA has determined that the Texas amendment does not comply with the statutory requirements of section 1926 of the Act, and, thus, also does not comply with section 1902(a)(30)(A). The State argues that it has met the statutory requirements under guideline 1 of the draft State Medicaid manual revision. It permits a State to document compliance with the statute by submitting data showing that at least 50 percent of obstetrical and pediatric practitioners are full Medicaid participants or that Medicaid participation is at the same rate as Blue Shield participation. The State claims that it exceeds the 50 percent criteria. HCFA believes, however, that the data are insufficient since the methodology employed to develop the documentation is inconsistently applied across the geographic areas specified. Thus, HCFA cannot be certain of the accuracy of the obstetrical and pediatric practitioner rates.

The notice to Texas announcing an administrative hearing to reconsider the disapproval of its State plan amendment reads as follows:

September 26, 1990.

Donald L. Kelley, M.D.,

State Medicaid Director, Texas Department of Human Services, P.O. Box 149030, Austin, Texas 78714-9030.

Dear Dr. Kelley: I am responding to your request for reconsideration of the decision to disapprove Texas State Plan Amendment (SPA) 90-13. The amendment contains a list of Medicaid obstetrical and pediatric payment rates and data alleging at least 50 percent of obstetrical and pediatric practitioners are full Medicaid participants.

The issue in this matter is whether the plan amendment complies with section 1926 and 1902(a)(30)(A) of the Social Security Act.

I am scheduling a hearing on your request for reconsideration to be held on November 6, 1990, at 10:00 a.m. in Room 1950, 1200 Main Tower, Dallas, Texas. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR Part 430.

I am designating Mr. Stanley Katz as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 967–3015.

Sincerely,

Gail R. Wilensky,

Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. section 1316); 42 CFR section 430.18)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: September 26, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 90–23387 Filed 10–2–90; 8:45 am]

BILLING CODE 4120–03–M

Hearing: Reconsideration of Disapproval of Wisconsin State Plan Amdt. (SPA)

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on November 14, 1990 in the 16th floor Conference room, 105 West Adams, Chicago, Illinois to reconsider our decision to disapprove Wisconsin State Plan Amendment 90–0005.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk by October 18, 1990.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, HCFA Hearing Staff, suite 110, Security Office Park, 700 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 967–3015.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove Wisconsin State Plan amendment (SPA) number 90–0005.

Section 1116 of the Social Security Act (the Act) and 42 CFR part 430 to establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

Wisconsin SPA 90–0005 contains a list of Medicaid obstetrical and pediatric payment rates and data alleging at least 50 percent of obstetrical and pediatric practitioners are full Medicaid participants. The State has also provided data explaining how fee-for-service payment rates for obstetrical and pediatric services are incorporated into the capitation rates for medicaid contracting HMOs.

The issue in this matter is whether the proposed plan amendment with regard to the fee-for-service payment rates, violates the statutory requirements of section 1926 of the Act and, thus, also does not comply with section 1902(a)(30)(A).

Section 1926 of the Act as added by section 6402 of the Omnibus Budget Reconciliation Act of 1989 (OBRA 89), Public Law 101–239, requires that, by no later than April 1 of each year (beginning in 1990), States are to submit plan amendments specifying their payment rates for obstetrical practitioner services and pediatric practitioner services. States also must provide specific information to document that those payment rates are sufficient to enlist enough providers such that obstetrical and pediatric services are available to Medicaid recipients at least to the extent that such services are available to the general population in the geographic area (section 1902(a)(30)(A) of the Act).

OBRA 89 was passed on December 19, 1989, and the Health Care Financing Administration (HCFA) is developing its final policy concerning what is required to determine that the State is in compliance with section 1902(a)(30)(A) of the Act. HCFA has, however, initially determined that for obstetrical and pediatric rate SPAs to be approvable, they must include the following:

1. Payment rates for this year and next year (i.e., 1990 and 1991) for those obstetrical and pediatric services covered under the State's plan. Pediatric rates must be specific by procedure, and we recommend the same format be followed for obstetrical services;

2. Data that document that payment rates for obstetrical and pediatric services are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area; and

3. Data that document that payment rates to Health Maintenance Organizations (HMOs) under 1903(m) take into account the payment rates specified in number 1 above.

HCFA has also developed several guidelines that, if met by the State, would evidence that the State meets the statutory requirements of section 1926 of the Act. These guidelines are set forth in a draft State Medicaid manual revision dated March 26, 1990.

Based upon the data submitted, HCFA has determined that the Wisconsin amendment does not comply fully with the statutory requirements of section 1926 of the Act, and, thus, also does not comply with section 1902(a)(30)(A). The State argues that Wisconsin met the statutory requirement under guideline 1 of the draft State Medicaid manual revision, which permits the State to document its compliance with the statute by submitting data showing that at least 50 percent of obstetrical and pediatric practitioners are full Medicaid participants or the Medicaid participation is at the same rate as Blue Shield participation. The State claims that Wisconsin exceeds the 50 percent criteria. HCFA believes, however, that the data are insufficient to meet the statutory requirements because Wisconsin has overestimated the number of participating practitioners and underestimated the total number of practitioners. The State further acknowledges that the number of practitioners in each county has been requested from Wisconsin's Department of Regulation and Licensing, but is not available for this submission. Thus, HCFA cannot be certain of the accuracy of the State's obstetrical and pediatric participation data. Therefore, HCFA disapproved this portion of the State plan amendment.

The State did, however, provide data explaining how fee-for-service payment rates for obstetrical and pediatric services are incorporated into the capitation rates for Medicaid contracting HMOs, and this portion of the amendment was approved.

The notice to Wisconsin announcing an administrative hearing to reconsider the disapproval of its State plan amendment reads as follows:

Mr. George F. MacKenzie, Administrator,
Division of Health.

Department of Health and Social Services

P.O. Box 309, Madison, Wisconsin 53701.

Dear Mr. MacKenzie: I am responding to your request for reconsideration of the decision to partially disapprove Wisconsin

State Plan Amendment (SPA) 90-0005. The amendment contains a list of Medicaid obstetrical and pediatric payment rates and data alleging at least 50 percent of obstetrical and pediatric practitioners are full Medicaid participants. The State has also provided data explaining how fee-for-service payment rates for obstetrical and pediatric services are incorporated into the capitation rates for Medicaid contracting Health Maintenance Organizations.

The issue in this matter is whether the State's proposed amendment with regard to the fee-for-service payment rates complies fully with the statutory requirements of sections 1926 and 1902(a)(30)(A) of the Social Security Act.

I am scheduling a hearing on your request to be held on November 14, 1990, at 10 a.m. in the 16th floor conference room, 105 West Adams, Chicago, Illinois. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR part 430.

I am designating Mr. Stanley Krostar as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 967-3015.

Sincerely,

Gail R. Wilensky,

Administrator.

Authority: Section 1116 of the Social Security Act (42 U.S.C. 1316; 42 CFR 430.18)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: September 27, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 90-23386 Filed 10-2-90; 8:45 am]

BILLING CODE 4120-03-M

Office of Human Development Services

Agency Information Collection Under OMB Review

AGENCY: Office of Human Development Services, HHS.

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Office of Human Development Services (OHDS) has submitted to the Office of Management and Budget (OMB) a request for approval of an information collection for a Follow-Up of Youth Using Runaway and Homeless Youth Centers.

ADDRESSES: Copies of the information collection request may be obtained from Larry Guerrero, OHDS Reports Clearance Officer, by calling (202) 245-6275.

Written comments and questions regarding the requested approval for information collection should be sent directly to:

Angela Antonelli, OMB Desk Officer for OHDS, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street NW., Washington, DC 20503, (202) 395-7316.

Information on Document

Title: Follow-up of Youth Using Runaway and Homeless Youth Centers.

OMB No.: 0980-0200.

Description: The specific objectives of the evaluation are to provide the Family and Youth Service Bureau and the Administration for Children, Youth and Families with information to:

- Assess the long-term effects of services provided by runaway and homeless youth centers on the development and welfare of such youth;
- Describe the strategies and characteristics of centers that have been successful in promoting long-term gains; and
- Describe the barriers that have hindred the delivery of lasting benefits.

Annual Number of Respondents: 889.

Annual Frequency: 1.

Average Burden Hours Per Response: 46 mins.

Total Burden Hours: 751.

Dated: September 27, 1990.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

[FR Doc. 90-23383 Filed 10-2-90; 8:45 am]

BILLING CODE 4130-01-M

Child Abuse and Neglect Prevention and Treatment; Proposed Research and Demonstration Priorities for Fiscal Year 1991

AGENCY: Office of Human Development Services (OHDS), Department of Health and Human Services (DHHS).

ACTION: Notice of proposed fiscal year 1991 child abuse and neglect research and demonstration priorities for the Office of Human Development Services.

SUMMARY: This notice identifies proposed priorities for research on the causes, prevention, identification and treatment of child abuse and neglect; on appropriate and effective investigative, administrative and judicial procedures with respect to cases of child abuse; and for demonstration or services programs and projects designed to prevent, identify and treat child abuse and neglect.

Comments on these priorities and suggestions for other topics are invited. The actual solicitation of grant applications will be published separately, at a later date, in the Federal Register. Solicitations for contracts will be announced in the *Commerce Business Daily.* No proposals, concept papers or other forms of application should be submitted at this time.

Section 105(a)(2)(B) of the Child Abuse Prevention and Treatment Act of 1988 (the Act), as amended, requires the Department to publish proposed priorities for research and demonstration activities for the purpose of soliciting comments from the public, including individuals knowledgeable in the field of prevention and treatment of child abuse and neglect. Final priorities will reflect consideration of recommendations received from the field in response to this notice.

DATES: In order to be considered, comments must be received no later than December 4, 1990.

ADDRESSES: Comments should be sent to: Wade F. Horn, Ph.D., Commissioner, Administration for Children, Youth and Families, Attention: National Center on Child Abuse and Neglect, P.O. Box 1182, Washington, DC 20013, (202) 245-0347.

SUPPLEMENTARY INFORMATION:

I. Background:

The National Center on Child Abuse and Neglect (NCCAN) is located in the Children's Bureau within the Administration for Children, Youth and Families of the Office of Human Development Services.

NCCAN conducts activities designed to assist and enhance national, State and community efforts to prevent, identify and treat child abuse and neglect. These activities include: Conducting research and demonstrations; supporting service improvement projects; gathering, analyzing and disseminating information through a national clearinghouse; providing grants to eligible States for developing, strengthening and carrying out child abuse and neglect prevention and treatment programs and programs relating to the investigation and prosecution of child abuse cases. In addition, the legislatively mandated Advisory Board and Child Abuse and Neglect and the Inter-Agency Task Force on Child Abuse and Neglect produce periodic reports regarding child abuse and neglect activities.

Pursuant to section 105(a)(2)(B) of the Child Abuse Prevention and Treatment Act of 1988 (the Act), as amended, this notice identifies proposed priorities for research on the causes, prevention, identification and treatment of child abuse and neglect; on appropriate and effective investigative, administrative and judicial procedures with respect to cases of child abuse; and for demonstration or service programs and projects designed to prevent, identify, and treat child abuse and neglect. It also identifies proposed topics to be discussed in symposia to be convened during fiscal year (FY) 1991. The proposed demonstration and service projects include priorities for training, innovative programs and other projects which show promise for addressing issues related to child maltreatment. Final research and demonstration priorities will take into consideration public comments. The solicitation for grant applications will be published in the **Federal Register**; solicitations for contracts will appear in the *Commerce Business Daily*.

In addition to projects funded under priority areas selected as a result of this announcement, NCCAN intends to continue funding for:

- The Clearinghouse on Child Abuse and Neglect Information
- The National Information Clearinghouse for Infants with Disabilities and Life Threatening Conditions
- The planning and implementation of a national data collection and analysis program for collecting data from official State reports on child abuse and neglect, as required by section 105(b) of the Act.

Moreover, NCCAN intends to support a competitively awarded project to examine the incidence and prevalence of child abuse and neglect. NCCAN also intends to support a competitively awarded project to plan and conduct the Tenth National Conference on Child Abuse and Neglect, which will take place in FY 1994.

II. Recent Research and Demonstration Topics

Recently funded research and demonstration projects supported by NCCAN in fiscal years 1989 and 1990 have addressed the following topics:

NCCAN Priority Areas Funded in FY 1989

Research Projects:

- Family Functioning of Neglectful Families
- Community-Based Prevention of Child Maltreatment
- Prosecution of Child Maltreatment Cases
- Judicial Review Process
- Impact of Treatment Approaches for Intrafamilial Child Sexual Abuse
- Status of Measurement Development in the Study of Child Abuse and Neglect
- Field Initiated Research on Child Abuse and Neglect
- Consortium for Longitudinal Studies of Child Maltreatment

Demonstration Projects:

- Utilizing Results of Demonstration Grant Clusters: Parent Aide and Respite Care Programs
- Adaptation of Child Sexual Abuse Training Curricula for Demonstration with Native American Populations
- Parents' Self-Help Groups
- Prevention of Physical Child Abuse and Neglect

NCCAN Priority Areas Funded in FY 1990

Research Projects:

- Joint Law Enforcement/Child Protective Services Investigations of Reports of Child Maltreatment
- Psychological Impact of Child Maltreatment
- Empirical Evaluations of Treatment Approaches for Child Victims of Physical or Sexual Abuse
- Field Initiated Research for Child Abuse and Neglect

Demonstration Projects:

- Synthesis and Utilization of Results of "Child Victims as Witnesses" Projects
- Review of Existing Training for Judges to Improve the Criminal and Civil Court Intervention Process in Child Sexual Abuse Cases
- Strengthening of Leadership and Resources for Cultural Competence in Child Abuse and Neglect
- National Conference on Child Abuse and Neglect.

Because the project periods for many of the grants funded in FY 1990 extend up to five years, the subject areas listed above, with two exceptions, are not being considered for funding in FY 1991. The two exceptions are: (1) Field Initiated Research on Child Abuse and Neglect, which is being repeated, and (2) the planning for and conduct of the next National Conference on Child Abuse and Neglect to be held in FY 1994, which will be competitively awarded.

III. Proposed Child Abuse and Neglect Research and Demonstration Priorities for FY 1991

The Office of Human Development Services (OHDS) solicits comments and suggestions concerning each of the proposed priorities for FY 1991 described below. We also solicit suggestions for topics not covered in this announcement, but which are timely and related to specific needs in the field of child abuse and neglect. Any suggestions for new topics should keep in mind the issues already being addressed in current projects, as listed above. Comments should also build on the current base of knowledge in child abuse and neglect and its prevention, identification and treatment. Knowledge gained through proposed research and demonstration priorities should lead to improved services for children and families and increase the knowledge in the field. As specified in the proposed priority areas, we intend to pay special attention to issues of ethnic and cultural relevance in the design of demonstration projects and research studies as well as in the development of measures, evaluations and objectives.

More detailed information on prior and continued projects supported by NCCAN as well as other studies on child maltreatment are available through the Clearinghouse on Child Abuse and Neglect Information, P.O. Box 1182, Washington, DC 20013.

As a result of funding commitments for current projects, fewer funds will be available for new grants in FY 1991 than in previous years. An estimated total of $1.3 million may be available for such projects. Consequently, we have limited the number of research and demonstration priorities proposed in this amendment. Respondents are encouraged to recommend how proposed issues should be prioritized. All estimates of the availability of funds are subject to Congressional appropriations.

No acknowledgment will be made of the comments submitted in response to this notice, but all comments received by the deadline will be reviewed and given thoughtful consideration in the preparation of the final funding priorities for child abuse and neglect activities in FY 1991. Copies of the final program announcement will be sent to all persons who comment on these proposed priorities.

A. Proposed Research Priorities

The proposed research priority areas have been developed as the result of information and suggestions received from the field including NCCAN-sponsored research symposia, the NCCAN Research Grantees Meeting, Hearings on Issues in Research on Maltreatment convened by the Research Committee of the U.S. Advisory Board on Child Abuse and Neglect, and discussions held directly with the U.S. Advisory Board on Child Abuse and Neglect.

NCCAN plans to continue building on recommendations made at the meetings described above. We recognize the importance of longer timeframes with suitable funding levels to enable projects to both initiate and conclude studies with appropriate products and processes for the dissemination of findings. We propose that all future successful applicants include plans to prepare data sets according to NCCAN-suggested procedures to ensure the

potential of these data sets for subsequent use by other researchers. In addition, grantees will be expected to follow an NCCAN-suggested format in the preparation of final program reports in order to achieve broader dissemination and successful utilization of findings by policymakers, practitioners, and other researchers. We will also encourage the use of common data collection instruments across studies where applicable. The review process for applications that are to be submitted in response to the final announcement will continue to be that of peer review.

1. Field Initiated Research for Child Abuse and Neglect

There is an ongoing need to generate new knowledge and an understanding of critical issues in the field in order to improve its capacity to prevent, identify and treat child abuse and neglect. The purpose of this priority area is to support new research designed to carry out the legislative responsibilities established for the National Center on Child Abuse and Neglect by the Child Abuse Prevention and Treatment Act of 1988, as amended. These responsibilities include the conduct of research on the causes, prevention, identification and treatment of child abuse and neglect, and on appropriate and effective investigative, administrative and judicial procedures with respect to cases of child abuse, particularly child sexual abuse.

Research issues to be addressed are those that will expand the current knowledge base, build on prior research, contribute to practice and provide insights into new approaches to the prevention and treatment of child maltreatment. Such issues include, but are not limited to, alternative methods for measuring prevalence; recurrence rates and causes of recidivism; child fatalities; the impact of feedback on reporter and Child Protective Services (CPS) system behavior; parent and child experiences with the CPS system; factors that promote resilience in maltreated children; collaborative approaches to assessment and treatment for parallel traumas experienced by the child such as substance abuse plus maltreatment; prevention of revictimization; transfer of appropriate technology from other fields; and methods for translating and disseminating critical bodies of research for use in practice. The proposed research studies should be designed to address current and emerging issues that have direct application to the field of child abuse and neglect.

NCCAN proposes that longitudinal studies be coordinated with the NCCAN-sponsored Consortium for Longitudinal Studies of Child Maltreatment which seeks to aggregate compatible projects into a longitudinal study database. It is intended that these studies will also obtain information on the ability of maltreated children to deal with normative developmental transitions. Further, it is proposed that data sets be prepared in accordance with suggested procedures being developed by the National Data Archive on Child Abuse and Negelct that would enable others to readily use the data.

2. Graduate Research Fellowships in Child Abuse and Neglect

The research community has highlighted the need to draw new researchers into the field of child abuse and neglect. Researchers at NCCAN-sponsored research symposia and grantees' meetings and the Hearings on Issues in Research on Child Maltreatment convened by the Research Committee of the U.S. Advisory Board on Child Abuse and Neglect have recommended the granting of stipends at the doctoral level as one of several vehicles to address this need. In response to this recommendation, NCCAN proposes to support individual fellowships for doctoral candidates to complete dissertations addressing critical issues in child abuse and neglect.

NCCAN seeks to expand the research capacity of the field by encouraging more students to seek careers in child abuse and neglect research through the granting of graduate fellowships for doctoral candidates to complete their dissertations. The questions to be addressed and issues to be studied for graduate fellowships are those related, but not limited, to the Priority Area on Field Initiated Research for Child Abuse and Neglect.

Students seeking these Graduate Research Fellowships must be enrolled as doctoral candidates in their sponsoring institutions. Proposals submitted by sponsoring institutions must include candidates' resumes outlining education, employment experience and publications. Information should also be included on the academic status of the candidate. A letter of support from a sponsoring faculty member must be provided for each doctoral candidate seeking a Fellowship.

While an individual is considered to be the beneficiary of the grant support, awards would be made to eligible institutions on behalf of qualified candidates. To be eligible to administer such a grant on behalf of the student, the institution must be fully accredited by one of the regional institutional accrediting commissions recognized by the U.S. Secretary of Education and the Council on Postsecondary Accreditation. There are no overhead costs allowed for this program. The full amount of the stipend is to go directly to the graduate student. No more than two awards per institution will be made. Awards would be for a twelve-month period and would be used to cover stipends, dependent allowances, university fees and major costs for conducting the proposed study project, including any necessary travel.

3. Research on Male Juvenile Sexual Offenders

In 1980, NCCAN funded 14 three-year demonstration projects for the management and treatment of intrafamily child sexual abuse cases. Almost every project found substantial increases in the number of reports of male juvenile sexual offenders compared to previous years. In the treatment of adult sexual offenders, these programs also found patterns of perpetration that began during the adolescent years with the victimization of younger children. This finding, along with other research, suggests that the untreated adolescent sexual abuser is likely to become an adult sexual offender. Other studies citing the problem of sex offenses by adolescents have further found that a large number of these offenders have a history of being sexually abused. Therefore, without intervention, male victims of sexual abuse may repeat their victimization on others. A study in Washington State also added documentation to the growing concern over the number of pre-adolescent children who are victimizing other children (26 percent were 6 to 12 years old at the time of the sexually aggressive behavior).

The Preliminary Report of the Task Force of the National Adolescent Perpetrators Network, completed in 1988, pointed out that specialized treatment programs had grown significantly from the 20 programs identified in 1982. Most recently, the Nationwide Survey of Juvenile and Adult Sex-Offender Treatment Programs, completed in May 1990 by the Safer Society Program, identified 626 programs that specialized in treatment for the juvenile sexual offender. Over half of these programs provide services to 6 to 12 year old victims who act out sexually. Little, however, is known about the effectiveness of these various

treatment approaches and for which juvenile offenders a particular type of treatment is most effective.

NCCAN is interested in supporting studies that build on current methodologies and research to measure the effectiveness of treatment approaches for this population of 6 to 12 year olds in order to prevent repeat victimization. Information is needed on the outcomes of different types of treatment for different lengths of time and for different types of maltreatment and child and family characteristics. Research questions to be addressed also include the relationship between early childhood victimization and perpetration and the identification of the at-risk pre-adolescent population most prone to become offenders. NCCAN recognizes the complexities in assessing the effectiveness of various treatment approaches for the range of topologies represented in this population.

B. Proposed Demonstration and Service Priorities

1. National Resource Centers on Child Abuse and Neglect

Section 106(b) of the Child Abuse Prevention and Treatment Act, as amended, requires that Resource Centers be established that serve defined geographic areas; that are staffed by multi-disciplinary teams of personnel trained in the prevention, identification and treatment of child abuse and neglect; and that provide advice and consultation to individuals, agencies and organizations which request such services. To comply with that mandate, NCCAN seeks to support a Child Abuse and Neglect Resource Center and a Child Sexual Abuse Resource Center through Cooperative Agreements. Both Centers are expected to have qualified personnel, adequate resources and the organizational, professional and educational capacity to carry out the intent of the legislation.

On a nationwide basis, the National Resource Center on Child Abuse and Neglect will provide leadership, resource information and materials, technical assistance and professional consultation in the prevention, identification, diagnosis and treatment of child abuse and neglect; the training of professionals in the field of child abuse and neglect; and the identification, verification and dissemination of best practices and treatment models.

On a nationwide basis, the National Resources Center on Child Sexual Abuse will provide leadership, resource information and materials, technical assistance and professional consultation in the prevention, identification, diagnosis and treatment of child sexual abuse; the investigation, management and prosecution of child sexual abuse cases from the initial report through disposition; the training of professionals in the field of child sexual abuse; and the identification, verification and dissemination of best practices and treatment models.

The two proposed Resources Centers will provide assistance to State and local agencies, organizations and individuals involved in child abuse and neglect prevention and treatment and in related fields. To that end, questions related to the type and extent of the assistance needed by the field must be addressed, as well as questions related to how to ensure that the latest knowledge on the prevention, identification and treatment of child abuse and neglect, including child sexual abuse, will be provided. In addition, the provision of assistance and consultation must be conducted in a manner that takes into account varying circumstances and conditions in the field and the client population, requiring that questions of flexibility, options for delivery and appropriateness of content be addressed.

Specific objectives related to the Centers' efforts to provide assistance to the field will include:

- Identifying emerging child abuse and neglect/child sexual abuse issues and preparing information and policy papers for the field addressing such issues;
- Identifying, documenting and developing innovative or exemplary resources, such as training curricula, manuals and studies, and assisting the field in adapting such resources to meet specific needs;
- Providing technical assistance, training and consultation to improve professional competency and to promote the utilization of resources and best practices related to child abuse and neglect and child sexual abuse, including methods and techniques for pregram implementation and evaluation; and
- Developing a network of professionals in child abuse and neglect and related fields and linking these individuals with other persons and agencies requesting assistance.

NCCAN proposes to implement these projects as Cooperative Agreements. (A Cooperative Agreement is Federal financial aid in which substantial Federal involvement is anticipated.) The respective responsibilities of Federal staff and project staff would be identified and agreed upon prior to award.

2. Collaborative Arrangements Between State Child Welfare Agencies and State Title IV–A Agencies to Train Job Opportunity and Basic Skills (JOBS) Participants to Work as Child Protective Services Paraprofessionals

A major area of concern to NCCAN and to the child abuse field in general is the overwork and heavy caseloads experienced by many child protective services (CPS) workers. This situation has led in many localities to burn-out and high turnover which has restricted the ability of public agencies to deliver needed services. NCCAN is interested in the potential offered by the Job Opportunity and Basic Skills (JOBS) program to provide innovative ways to support the work of child protective services workers and, perhaps, to enable public agencies to augment current services.

The August 1990 report of the U.S. Advisory Board on Child Abuse and Neglect states that "reported cases of child maltreatment have more than doubled in the past decade. * * * The child protection system has not expanded to meet the challenges posed by these changes. The huge increase in cases has not only affected the CPS agencies charged with investigating cases. It also has had significant effects on law enforcement agencies, juvenile and criminal courts, prosecutor offices, public defender offices, and mental health agencies involved with investigating, adjudicating, or treating maltreated children and their families." These same stressors, it should be noted, are also adversely impacting the ability of child welfare agencies to develop and support innovative efforts to prevent child maltreatment.

The Family Support Act of 1988 (the Act) authorized the JOBS program, which shifts the primary purpose of the AFDC program from providing cash assistance to help welfare recipients become employed and self-sufficient. The Act requires that all States implement the JOBS program, which provides education, job training, and work activities for participants, by October 1, 1990.

Participants in the JOBS program can constitute a valuable resource to State CPS agencies. Participants, through the education and training supported by the JOBS program, could be trained as paraprofessionals to work in support roles with child protection and child welfare professionals or to augment the services provided by these professionals in capacities such as "home visitors."

NCCAN is interested in soliciting joint applications from State child welfare/

child protection agencies and State title IV–A agencies to address the preparation and training of paraprofessionals in the child protection field. These State agencies would be expected to enter into collaborative arrangements to provide training to JOBS participants. Project sponsors would need to determine the type of training that would be provided and the training methods that would be employed. The specific paraprofessional role(s) for which JOBS participants would be trained and the methods that would be employed in evaluating the effectiveness of the demonstration training projects would also need to be defined.

C. Symposia

In addition to the above activities, NCCAN proposes to convene symposia in FY 1991 with selected experts on subject areas of critical concern to the field of child abuse and neglect. The selection of topics for the symposia will focus on issues on which some research and demonstration efforts have occurred but for which there is no clear direction for further development.

The purpose of each symposium is to review what is known to the field, but nees further exploration, and to identify areas about which little is known and which require closer examination. The symposia should result in recommendations for multi-year strategies to further explore some topics and to identify new areas for examination. This will be accomplished by bringing together small groups of selected experts who will assess the major issues and identify trends and problems in the field. Substantive reports of publishable quality will be prepared based upon the discussions during and findings of the symposia.

Comments are requested on the following symposia topics which NCCAN proposes to address in FY 1991:

- The Effectiveness of Intervention and Treatment by Child Protective Services.
- Prevention of Child Abuse and Neglect, and
- Children in Court.

(Catalog of Federal Domestic Assistance Program Number 13.670, Child Abuse and Neglect Prevention and Treatment.)

Dated: September 27, 1990.

Wade F. Horn,

Commissioner, Administration for Children, Youth and Families.

Approved September 27, 1990.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

[FR Doc. 90–23385 Filed 10–2–90; 8:45 am]

BILLING CODE 4130–01–M

Runaway and Homeless Youth Proposed Priorities for Fiscal Year 1991

AGENCY: Office of Human Development Services (OHDS), Department of Health and Human Services (DHHS).

ACTION: Notice of Proposed Fiscal Year 1991 Runaway and Homeless Youth Program Priorities for the Office of Human Development Services.

SUMMARY: The Runaway and Homeless Youth Act requires the Department to publish annually for public comment a proposed plan specifying priorities the Department will follow in making grants under this title. Final priorities selected will take into consideration the comments and recommendations received from the field in response to this notice.

The public, particularly those knowledgeable about and experienced in providing services to runaway and homeless youth, are urged to respond. In implementing the final priorities, the actual solicitations of grant applications will be published at a later date in the **Federal Register**. Solicitations for contracts will be published in the "Commerce Business Daily." No proposals, concept papers or other forms of application should be submitted at this time.

DATES: To be considered, comments must be received no later than November 19, 1990.

ADDRESSES: Please address comments to: Wade F. Horn, Ph.D., Commissioner, Administration for Children, Youth and Families. Attention: Family and Youth Services Bureau, P.O. Box 1182, Washington, DC 20013, (202) 245–0102.

SUPPLEMENTARY INFORMATION:

I. Purpose

The purpose of the Runaway and Homeless Youth Act (the Act) is to improve services for and increase knowledge about runaway and homeless youth and their families. This Act is administered by the Family and Youth Services Bureau (FYSB) of the Administration for Children, Youth and Families (ACYF).

The Act authorizes financial assistance to establish or strengthen community-based centers designed to address the immediate service needs of runaway and homeless youth and their families; to fund a national communication system; to provide grants to statewide and regional non-profit organizations for the provision of training and technical assistance to agencies and organizations eligible to establish and operate runaway and homeless youth centers; to make grants for research, demonstration, and service projects; and to provide informational assistance to potential grantees interested in establishing runaway and homeless youth centers.

The Act also authorizes a transitional living grant program under which grants were awarded for the first time in fiscal year (FY) 1990.

II. Background

The Family and Youth Services Bureau is located within the Administration for Children, Youth and Families, Office of Human Development Services, Department of Health and Human Services.

The Family and Youth Services Bureau is responsible for administering the Runaway and Homeless Youth Act at the Federal level. To carry out the purposes of the Act, FYSB conducts activities that address crisis needs of runaway and homeless youth and their families through the establishment or strengthening of more than 340 community-based programs providing temporary shelter, counseling, and aftercare services. The Family and Youth Services Bureau also supports coordinated network grants designed to share information, expertise, and resources among service providers, and a toll-free 24-hour National Runaway Switchboard which serves as a neutral channel of communication between young people and their families and as a source of referral to needed services.

III. Annual Program Priorities

As required by section 364 of the Act, we are proposing for public comment the following FY 1991 priorities and are soliciting comments and recommendations on these priorities. We also encourage suggestions for topics not covered in this announcement but which are timely and relate to the needs of runaway and homeless youth.

Commentors should be aware that Section 366(a)(2) requires that 90 percent of the funds appropriated under Part A of the Runaway and Homeless Youth Act be used to establish and strengthen runaway and homeless youth basic centers. Total funding under Part A of the Act for FY 1991 is expected to be approximately $28.8 million, depending on Congressional action.

In providing suggestions and recommendations, commentors should also be aware of research and demonstration projects supported by FYSB in previous years. These include:

- Enhancing cooperation between law enforcement agencies and runaway and homeless youth centers;

- Preventing alcohol abuse among minority youth;
- Demonstrating integrated treatment for dysfunctional families of at-risk youth by runaway and homeless youth basic centers;
- Developing transitional living programs for homeless youth;
- Promoting Private Industry Council (PIC) youth employment partnerships with centers for runaway and homeless youth;
- Mainstreaming troubled youth;
- Improving participation of minority youth in runaway and homeless youth centers; and
- Preventing youth suicide.

For further information concerning these and other research and development projects supported by FYSB in earlier years, commentors are invited to contact Mr. Edward Bradford, Family and Youth Services Bureau, P.O. Box 1182, Washington, DC 20201, telephone: (202) 245–0060.

No acknowledgement will be made of the comments received in response to this notice, but all comments received by the deadline will be considered in preparing the final runaway and homeless youth funding priorities. Final priorities will be published prior to December 31, 1990 as required by the Act.

The selected priority area statements soliciting applications for grants under the research and demonstration program will be included in the Office of Human Development Services' (OHDS) Coordinated Discretionary Funds Program (CDP) Federal Register announcement for FY 1991. The priority statements and requests for applications for the Basic Centers, the National Communication System, and the Transitional Living Projects will appear in one or more additional Federal Register announcements as in previous years. Copies of these program announcements will be sent to all persons who comment on these proposed priorities. Solicitations for contracts for technical assistance and training and selected evaluation priorities will be published in the "Commerce Business Daily" during FY 1991.

A. Priorities for Runaway and Homeless Youth Basic Centers

Part A, section 311 of the Act authorizes the Department to make grants to public and private entities to establish and operate local runaway and homeless youth centers to provide services to deal primarily with the immediate needs of runaway or otherwise homeless youth and their families in a manner which is outside the law enforcement structure and the juvenile justice system.

Approximately 340 grants, of which one-third will be competitive new awards, will be funded in FY 1991 to support organizations which provide services to fulfill the four major goals of the Runaway and Homeless Youth Program. These goals are to:

1. Alleviate the problems of runaway and homeless youth;
2. Reunite youth with their families and encourage the resolution of intrafamily problems through counseling and other services;
3. Strengthen family relationships and encourage stable living conditions for youth; and
4. Help youth decide upon a future course of action.

Community-based centers that address the immediate needs (e.g., outreach, temporary shelter, food, clothing, counseling, aftercare, and related services) of runaway and homeless youth and their families will be established or strengthened through the conduct of a competitive grant review process. The review criteria and the accompanying application forms and procedures will be published in a Federal Register announcement.

Funds for basic center grants are allotted annually among the States and other qualifying jurisdictions on the basis of their relative population of individuals who are less than 18 years of age. For the past several years, basic center grants have been awarded for three-year project periods. Approximately one-third of the basic center grants expire each year, requiring these agencies to compete for new awards. The remaining two-thirds of the basic center grants receive non-competitive continuation awards. Within any given State, in consequence, specific grantees may fall within any one of three different funding cycles. This has led to some perceived unfairness and inequity in funding. In those years in which Federal funding has increased substantially for the overall program, competing applicants have had an opportunity to receive substantial increases in their grant awards while non-competing (continuation) grantees have been denied the potential for comparable increases. In addition, a number of grantees receiving relatively small annual awards (e.g., under $25,000, as opposed to the national average of approximately $75,000) have become locked into a repeating cycle of small awards from which they perceive no exit. In view of this situation, we solicit comments on a possible new policy which would place all basic center grants within a given State on the same competitive cycle. The purpose of such a policy would be to improve the fairness of the competitive process and to increase equity among basic center grantees.

Additionally, in previous years, agencies eligible to receive continuation grants under the basic center program have been precluded from competing for available funds to permanently increase their approved three-year funding levels. The intent of this policy has been to maintain or increase the number of agencies in each State receiving Federal support to provide basic center services to runaway and homeless youth. We are interested in public comments on a possible change in this practice under which non-competing continuation grantees would be allowed to compete for supplemental funds to their existing grants. Such supplemental funding would be for the purposes of strengthening and/or expanding basic center services to runaway and homeless youth and their families, and would be available only if there was a significant increase in State allocations.

B. Priorities for a National Communications System

Part A, section 313 of the Runaway and Homeless Youth Act, as amended, mandates support for a national communication system to assist runaway and homeless youth in communicating with their families and with service providers and earmarks $750,000 in FY 1991 for this purpose. The current grant for this system, which was awarded in 1986 to Metro-Help, Inc. of Chicago to operate the National Runaway Switchboard, expires in February, 1991.

In addition, there are other national, toll-free, runaway hotlines which operate in the United States. There are also numerous State and regional hotlines providing similar services for runaways, and a variety of toll-free numbers for related services (e.g., the Missing Child Hotline operated by the National Center for Missing and Exploited Children). These agencies and others could potentially apply for the national communication system grant.

The Family and Youth Services Bureau intends to publish an announcement in the Federal Register indicating the availability of funds for the national communication system. A new award will be made by February 1, 1991, in order to avoid any disruption in services.

C. Priorities for Transitional Living Grants

Part B, section 321 of the Runaway and Homeless Youth Act, as amended, authorizes grants to establish and operate transitional living projects for homeless youth. The Transitional Living Program is structured to help older, homeless youth achieve self-sufficiency and avoid long-term dependency on social services. Transitional living projects provide shelter, skills training, and support services to homeless youth ages 16 through 21.

The first transitional living grants were awarded in September, 1990, for three-year project periods and 15-month budget periods. This will allow the Family and Youth Services Bureau to initiate a second round of competitive funding in FY 1991. Approximately 30 new transitional living grant awards are expected to be made in FY 1991. The review criteria and the accompanying application forms and procedures will be published in a **Federal Register** announcement.

Several programs within FYSB are targeted to homeless populations, along with a number of Federal programs outside FYSB, and coordination among these programs would enhance services and reduce duplication. The Family and Youth Services Bureau will continue to work with other DHHS agencies to coordinate health and mental health services for homeless youth and with the Department of Housing and Urban Development to coordinate housing for homeless youth. In addition, technical assistance and training activities to relevant programs will be coordinated across FYSB-administered programs (see paragraph D below).

D. Priorities for Technical Assistance and Training

Both the Runaway and Homeless Youth Act, section 314, and the Drug Abuse Prevention Program for Runaway and Homeless Youth, section 3511 of the Anti-Drug Abuse Act of 1988, also administered by FYSB, authorize support to nonprofit organizations for the purpose of providing training and technical assistance to runaway and homeless youth service providers. For the past several years, these general services have been provided through coordinated networking grantees in each of the ten Federal regions.

Beginning in FY 1991, FYSB proposes to adopt a more consolidated approach to supporting its training and technical assistance program and to shift from grants to contracts. Departmental policy requires that technical assistance and training of the highly specific nature contemplated by FYSB be delivered through contracts rather than through grants. Accordingly, we will follow a competitive process for the award of contracts to regional, nonprofit organizations that will integrate and deliver these technical assistance and training services across the country. Further, because of the substantial differences in geographic size, youth population, and number of FYSB grantees in the various Federal Regions, we are contemplating consolidating some service delivery areas and awarding only five or six such contracts. This consolidation would be a more cost effective use of the limited technical assistance and training funds available. We are particularly interested in comments on the advantages and disadvantages of consolidating service delivery areas and on the potential impact of reducing the number of Federally-supported agencies providing training and technical assistance across the country.

The Family and Youth Services Bureau intends to support a training and technical assistance program that promotes consistent, high quality, technical assistance and training opportunities for runaway and homeless youth service providers across the country. In part, this program would analyze, and disseminate a number of existing model programs resulting from recent research and demonstration efforts in suicide prevention, independent/transitional living, outreach, aftercare, and other related youth service areas. The program will also carry out the training activities authorized by the Drug Abuse Prevention Program for Runaway and Homeless Youth. A curriculum for those activities is currently being developed. We would appreciate comments on any additional specific areas of focus of interest to the field.

E. Priorities for Research, Demonstration, and Service Projects

Section 315 of the Act authorizes the Department to make grants to States, localities, and private entities to carry out research, demonstration, and service projects designed to increase knowledge concerning, and to improve services for, runaway and homeless youth. These activities are important in order to identify emerging issues and to develop and test models which address such issues. For FY 1991, we are considering several priority areas for research and demonstration projects. Recognizing that there are not sufficient funds to support projects in all of these areas, we encourage comments from the field on which of these projects would be most helpful to the youth service community. In addition, comments are encouraged regarding the focus of and refinements to the projects being proposed. When final determination of the priorities is established, proposals to carry out the specific projects will be solicited through the **Federal Register** announcement for the OHDS Coordinated Discretionary Funds Program (CDP). Activities more appropriately carried out through contracts will be solicited through the "Commerce Business Daily".

Potential priority areas for FY 1991 research and development projects include:

(1) Services for Runaway and Homeless Youth With Disabilities

This priority area would focus on enhancing the ability of youth service providers to meet the needs of runaway and homeless youth who are disabled or who have parents or guardians with disabilities. We are particularly interested in comments regarding the need for an assessment of the current ability of service providers to meet the needs of runaway and homeless youth with disabilities. Alternatively, demonstration projects could be funded to develop models to meet the needs of such youth.

(2) Survey of State Runaway and Homeless Youth Laws and Funding

Several States have or are in the process of developing statutes and funding to address the runaway and homeless youth issue. This priority area would identify and describe the extent and substance of these State laws and of State support for runaway and homeless youth services. A final report on current State practices and policies affecting runaway and homeless youth would be developed and disseminated.

(3) Transitional Living/Independent Living Collaboration

The purpose of this proposed priority area would be to support demonstrations which would develop and test models of interagency collaboration between projects funded under the Transitional Living Program for Homeless Youth and the Independent Living Initiatives Program for youth in foster care under title IV–E of the Social Security Act. Both programs are admininstered by ACYF.

Some of the youth to be served by the transitional living projects may be eligible for Federal support under Title IV–E of the Social Security Act and, therefore, are eligible for Independent Living Program services. Moreover, the

service needs of homeless youth and older youth in foster care are similar. Therefore, coordination of the housing and social services available under the respective programs could produce a cost-effective and comprehensive program model for nationwide replication.

(4) Comprehensive Service Delivery Models

This priority area would provide financial support to stimulate the identification and packaging of exemplary models of comprehensive youth services delivery, including best practices in State and local collaboration between runaway and homeless youth centers and other service providers. We would be parucularly interested in identifying those formal agreements which facilitate the provision of medical, education, employment, and other services to runaway and homeless youth. The models developed would be used to inform the runaway and homeless youth service field on effective methods for expanding, managing and improving services.

(5) Home-Based Care—An Alternative to Shelter

This priority area would focus on the development of home-based intervention models, including mediation, designed to meet the needs of at-risk youth and their families. Many basic centers have identified the need for intensive and sustained family-based support in order to best meet the needs of potential runaway and other at-risk youth, and home-based mediation approaches are being used by some providers as an alternative to shelter programs. Projects funded under this priority area would be required to conduct cost-benefit analyses and evaluations of the effectiveness of this approach.

(6) Staff Development and Minority Recruitment

Recruitment and retention of qualified staff, particularly minority staff, have been identified as problems for many runaway and homeless youth service providers. To address these problems, this priority area would support the development of youth services curricula to be used by schools of social work in bachelor or master level degree programs, as well as the development and delivery of in-service training models for staff currently employed by youth service organizations. In addition, emphasis would be given to increasing the number of minorities working in the area of youth services by providing financial support for the education and professional training of minority students pursuing undergraduate or graduate degrees in social work who express an interest in working with adolescents.

(7) Field-Initiated Research—Impact of Family Trends on Adolescent Runaway Behavior

A number of significant changes in family demographics, economic conditions, and social trends in America over the last two or three decades are having an impact on adolescent behavior. This priority area would call for field-initiated research to identify one or more of these trends and assess the impact on runaway behavior, drug abuse, participation in gangs, or other identified trends in adolescent behavior, and to relate the research findings to enhancing the quality of youth services. We would propose to limit eligibility for such grants to institutions which demonstrate the capability to conduct research in collaboration with FYSB-supported youth programs.

F. Priorities for Evaluation

Third party evaluations are important means of identifying and measuring the outcomes of federally supported programs. Information from such evaluations can be used to improve program quality and to determine program effectiveness. The following two evaluation projects, which would be funded through contracts, are planned for FY 1991:

(1) Evaluation of the Transitional Living Program

The first grants under the new Transitional Living Program were awarded in FY 1990 and a design for the evaluation of these projects is being developed. The focus of the planned evaluation will be the effectiveness of the services provided by these projects, primarily in terms of client outcomes.

(2) Evaluation of Services Provided by Basic Centers for Runaway and Homeless Youth

This proposed project would utilize a pretested instrument to study approximately 2,000 youth who have been served by the basic centers funded under the Runaway and Homeless Youth Act. Findings from a project funded in FY 1989 indicate that establishing contact with runaway and homeless youth is a difficult task. Under this proposed project, a national network of center staff would be used to track and contact individual youth and to conduct follow-up interviews. The findings from the study would provide updated information on the effectiveness of the services provided to runaway and homeless youth for use at the Federal and service provider levels.

(Catalog of Federal Domestic Assistance, Program Number 13.623, Runaway and Homeless Youth; effective October 1, 1990, Program Number 93.623).

Dated: September 27, 1990.

Wade F. Horn,

Commissioner, Administration for Children, Youth and Families.

Approved: September 27, 1990.

Maryh Sheila Gall,

Assistant Secretary for Human Development Services.

[FR Doc. 90-23384 Filed 10-2-90; 8:45 a.m.]

BILLING CODE 4130-01-M

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given to amend the notice of the Subcommittee of the National Cancer Advisory Board meeting which was published in the **Federal Register** (55 FR 38397) on September 18, 1990.

The Subcommittee on Special Actions for Grants which was scheduled to meet on October 1 at 8 a.m., Building 31C, Conference Room 6, will now meet at 1 p.m. The entire meeting will be closed to the public.

Dated: September 26, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-23335 Filed 10-2-90; 8:45 am]

BILLING CODE 4140-01-M

Health Resources and Services Administration

Program Announcement for Grants for Two-Year Programs of Schools of Medicine or Osteopathic Medicine

The Health Resources and Services Administration announces that applications for fiscal year 1991 Grants for Two-Year Programs of Schools of Medicine or Osteopathic Medicine are now being accepted under the authority of section 788(a), Public Health Service Act and section 631 of Public Law 100-607.

The Administration's budget request for fiscal year 1991 does not include funding for this program. Applicants should be advised that this program announcement is a contingency action being taken to ensure that should funds become available for this purpose, they can be awarded in a timely fashion

consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any changes in this policy.

Section 788(a) authorizes the award of grants to maintain and improve schools which provide the first or last two years of education leading to the degree of doctor of medicine or osteopathic medicine. Grants provided under this authority to schools that were in existence on September 30, 1985, may also request support for construction and purchase of equipment.

To be eligible for a grant under this authority, the applicant must be a public or nonprofit private school providing the first or last two years of education leading to the degree of doctor of medicine or osteopathic medicine and be accredited or be operated jointly with a school that is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education.

Review Criteria

Approval of all applications will be based on an analysis of the following factors:

(1) The extent to which the project meets the intent of section 788(a) legislation;

(2) The administrative and management ability of the applicant to carry out grant supported objectives in a cost effective manner;

(3) The adequacy of the qualifications and experience of the staff and faculty;

(4) The relative effectiveness of the proposed project in improving the quality of and/or access to medical education; and

(5) The extent to which the project is effective in its recruitment and retention of minority and disadvantaged students.

In addition, the following mechanism may be applied in determining the funding of approved applications:

Funding priorities—favorable adjustment of review scores when applications meet specified objective criteria.

Funding Priority for Fiscal Year 1991

The following funding priority was established in fiscal year 1989 after public comment and the Administration is extending this priority in fiscal year 1991.

In determining the order of funding of approved applications, a funding priority will be given to:

Projects which satisfactorily demonstrate an enrollment of underrepresented minorities in proportion to or greater than their percentage in the general population or can document an increase in the number of underrepresented minorities (i.e., Black, Hispanic, American Indian, Alaskan Native minority trainees) that have been recruited, and retained.

Requests for application materials, questions regarding grants policy and completed applications should be directed to:

Grants Management Officer (D–31), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6602.

Should additional programmatic information be required, please contact:

Primary Care Medical Education Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 4C–04, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–3614.

The standard application from PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

The application deadline is December 3, 1990. Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Postmarked on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications received after the deadline will be returned to the applicant.

This program is listed at 13.149 in the "Catalog of Federal Domestic Assistance." Applications submitted in response to this announcement that request construction assistance are subject to the Intergovernmental Review under provisions of Executive Order 12372, as supplemented by 45 CFR 100, Intergovernmental Review of Federal Programs. Applications submitted for program support only are not subject to intergovernmental review under these provisions.

Dated: September 12, 1990.

Robert G. Harmon,

Administrator.

[FR Doc. 90–23349 Filed 10–2–90; 8:45 am]

BILLING CODE 4160–15–M

Public Health Service

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of 3,3'-Dimethoxybenzidine Dihydrochloride

The HHS National Toxicology Program announces the availability of the NTP Technical Report on toxicology and carcinogenesis studies of 3,3'-dimethoxybenzidine dihydrochloride, used principally as an intermediate in the production of commercial bisazobiphenyl dyes for coloring textiles, paper, plastic, rubber, and leather.

Toxicology and carcinogenesis studies were conducted by administering doses of 0, 80, 170 or 330 ppm 3,3'-dimethoxybenzidine dihydrochloride in drinking water to groups of F344/N rats of each sex for a period of 21 months.

Under the conditions of these 21-month drinking water studies, there was clear evidence of carcinogenic activity [1] of 3,3'-dimethoxybenzidine dihydrochloride for male F344/N rats, as indicated by benign and malignant neoplasms of the skin, Zymbal gland, preputial gland, oral cavity intestine, liver, and mesothelium. Increased incidences of astrocytomas of the brain may have been related to chemical administration. There was clear evidence of carcinogenic activity of 3,3'-dimethoxybenzidine dihydrochloride for female F344/N rats, as indicated by benign and malignant neoplasms of the Zymbal gland, clitoral gland, and mammary gland.

Increases in neoplasms of the skin, oral cavity, large intestine, liver and uterus/cervix were also considered to be related to chemical administration of 3,3'-dimethoxybenzidine dihydrochloride.

The study scientist for these studies is Dr. D. Morgan. Questions or comments about this Technical Report should be directed to Dr. Morgan at P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541–2264.

Copies of Toxicology and Carcinogenesis Studies of 3,3'-Dimethoxybenzidine Dihydrochloride in F344/N Rats (Drinking Water Studies) (TR 372) are available without charge from the NTP Public Information Office,

[1] The NTP uses five categories of evidence of carcinogenic activity to summarize the strength of the evidence observed in each experiment: two categories for positive results ("clear evidence" and "some evidence"); one category for uncertain findings ("equivocal evidence"); one category for no observable effects ("no evidence"); and one category for experiments that because of major flaws cannot be evaluated ("inadequate study").

MD B2-04, P.O. Box 12233, Research Triangle Park, NC 27709.

Dated September 27, 1990.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 90-23336 Filed 10-2-90; 8:45 am]

BILLING CODE 4140-01-M

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of CS2

The HHS National Toxicology Program announces the availability of the NTP Technical Report on toxicology and carcinogenesis studies of CS2, an eye and respiratory irritant used as an aerosol to control riots.

Toxicology and carcinogenesis studies were conducted by exposing 50 rats of each sex to CS2 at target concentrations of 0, 0.075, 0.25 or 0.75 mg/m3, 6 hours daily, 5 days a week, for 105 weeks. Groups of 50 mice of each sex were exposed to 0, 0.75, or 1.5 mg/m3 on the same schedule.

Under the conditions of these inhalation studies, there was no evidence of carcinogenic activity [2] of CS2 for male or female F344/N rats exposed to 0.075, 0.25, or 0.75 mg/m3 in air for up to 2 years. There was no evidence of carcinogenic activity for male or female B6C3F1 mice exposed to 0.75 or 1.5 mg/m3 in air for up to 2 years. Concentration-related decreases in the incidences of pitutary gland adenomas and lymphomas were observed in female mice.

Exposure to CS2 caused degeneration and squamous metaplasia of the olfactory epithelium, hyperplasia and metaplasia of the respiratory epithelium, and proliferation of the periosteum of the nasal passage of rats. In mice, exposure to this compound caused suppurative inflammation and hyperplasia and squamous metaplasia of the respiratory epithelium of the nasual passage.

The study scientist for these studies is Dr. Kamal Abdo. Questions or comments about this Technical Report should be directed to Dr. Abdo at P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541-7819.

Copies of Toxicology and Carcinogenesis Studies of CS2 (94% o-Chlorobenzalmalononitrile) in F344/N Rats and B6C3F1 Mice (Inhalation Studies) (TR 377) are available without charge from the NTP Information Office, MD B2-04, P.O. Box 12233, Research Triangle Park, NC 27709.

Dated: September 27, 1990.

David P. Rall,

Director National Toxicology Program.

[FR Doc. 90-23337 Filed 10-2-90; 8:45 am]

BILLING CODE 4140-01-M

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of Allyl Glycidyl Ether

The HHS National Toxicology Program announces the availability of the NTP Technical Report on toxicology and carcinogenesis studies of allyl glycidyl ether, used as a resin intermediate and as a stabilizer of chlorinated compounds, vinyl resins, and rubber.

Toxicology and carcinogenesis studies were conducted by exposing groups of 50 rats and 50 mice of each sex to air containing allyl glycidyl ether at concentrations of 0, 5, or 10 ppm for 6 hours per day, 5 days per week for 103 weeks for rats and 102 weeks for mice.

Under the conditions of these 2-year inhalation studies, there was equivocal evidence of carcinogenic activity [3] of allyl glycidyl ether for male Osborne-Mendel rats, based on the presence of one papillary adenoma of respiratory epithelial origin, one squamous cell carcinoma of respiratory epithelial origin, and one poorly differentiated adenocarcinoma of olfactory epithelial origin, all occurring in the nasal passage of males exposed to 10 ppm. There was no evidence of carcinogenic activity of allyl glycidyl ether for female rats. One papillary adenoma of the respiratory epithelium was present in a female rat exposed to 5 ppm. There was some evidence of carcinogenic activity of allyl glycidyl ether for male B6C3F1 mice, based on the presence of three adenomas of the respiratory epithelium, dysplasia in four males, and focal basal cell hyperplasia of the respiratory epithelium in seven males in the nasal passage of mice exposed to 10 ppm. There was equivocal evidence of carcinogenic activity of allyl glycidyl ether for female mice, based on the presence of one adenoma of the respiratory epithelium and focal basal cell hyperplasia of the respiratory epithelium in seven females exposed to 10 ppm. The sensitivity of the assay to detect potential carcinogenicity may have been reduced in male rats because of poor survival in all groups.

The study scientist for these studies is Dr. Gary Boorman. Questions or comments about this Technical Report should be directed to Dr. Boorman at P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541-3440.

Copies of Toxicology and Carcinogenesis Studies of Allyl Glycidyl Ether in Osborne-Mendel Rats and B6C3F1 Mice (Inhalation Studies) (TR 376) are available without charge from the NTP Public Information Office, MD B2-04, P.O. Box 12233, Research Triangle Park, NC 27709.

Dated: September 27, 1990.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 90-23338 Filed 10-2-90; 8:45 am]

BILLING CODE 4140-01-M

[2] The NTP uses five categories of evidence of carcinogenic activity to summarize the strength of the evidence observed in each experiment: two categories for positive results ("clear evidence" and "some evidence"); one category for uncertain findings ("equivocal evidence"); one category for no observable effects ("no evidence"); one category for experiments that because of major flaws cannot be evaluated ("inadequate study").

[3] The NTP uses five categories of evidence of carcinogenic activity to summarize the strength of the evidence observed in each experiment: two categories for positive results ("clear evidence" and "some evidence"); one category for uncertain findings ("equivocal evidence"); one category for no observable effects ("no evidence"); one category for experiments that because of major flaws cannot be evaluated ("inadequate study").

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-90-3157]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Scott Jacobs, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours need to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 27, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Section 8 Housing Assistance Payments Program—Special Allocations (Loan Management Set-Aside).

Office: Housing.

Description of the Need for the Information and its Proposed Use: This rule authorizes using section 8 assistance in existing multifamily projects with HUD-insured or HUD-held mortgages, including section 202 projects and projects sold by HUD subject to purchase money mortgages.

Form Number: None.

Respondents: Individuals or households, State or local governments, and non-profit institutions.

Frequency of Submission: On occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Content of applications	300		1		20		6,000
Notice upon contract expiration	175		1		.5		88

Total Estimated Burden Hours: 6,088.

Status: Extension.

Contact: James J. Tahash, HUD, (202) 708–3944, Scott Jacobs, OMB (202) 395–6880.

[FR Doc. 90–23330 Filed 9–2–90; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–90–3156]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Scott Jacobs, OMB Desk Officer, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of respose, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reductionu Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 26, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Supplement to Subscription Agreement for Cooperative Housing Applicants Under Sections 213 and 221(d)(3).

Office: Housing.

Description of the Need for the Information and Its Proposed Use: The form HUD–93232A is a critical element and source document by which the Department determines the cooperative member and group capacity to meet the financial requirements of the project.

Form Number: HUD–93232A.

Respondents: Individuals or households.

Frequency of Submission: On occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD-93232A	10,000		1		.7		7,000

Total Estimated Burden Hours: 7,000.
Status: Reinstatement.
Contact: William Harris, (202) 708–1223, Scott Jacobs, OMB, (202) 395–6880.

[FR Doc. 90–23331 Filed 10–2–90; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed has been submitted to the Office of Management and Budget for approval under the provision of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collection requirement, related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Paperwork Reduction Project 1076–0113, Washington, DC 20503 at (202) 395–7340.

Title: 25 CFR 21.3—State or other contracting agency furnish plan of operation.

Abstract: The Bureau requires a plan executed by the State or other agency entering into a contract with the Bureau specifying the services and assistance to be rendered under the terms of the contract, and a budget showing the plan for expenditures of funds. Upon approval of the contract no deviation from the plan shall be made without prior approval.

Bureau Form Number: none.
Frequency: Annually, or at time of contract.
Description of Respondents: States or other agencies who contract with the Bureau.
Annual Responses: 4.
Annual Burden Hours: 16.
Bureau Clearance Officer: Gail Sheridan (202) 208–2685.

Dated: September 6, 1990.

Betty B. Tippeconnic,
Acting Chief, Division of Social Services.

[FR Doc. 90–23389 Filed 10–2–90; 8:45 am]
BILLING CODE 4310–02–M

Bureau of Land Management

[MIT–070–00–4050–91]

Montana; Area Closure, Headwaters Resource Area; Butte District, MT

AGENCY: Bureau of Land Management, Butte District Office.

ACTION: Emergency area closure on public lands.

SUMMARY: Notice is hereby given that all public lands in the Johnny's Gulch/Hauser Lake Area, south of the Johnny's Gulch Road in section 32, T. 11 N., R. 1 W., and sections 5 and 6, T. 10 N., R. 1 W. north of the Missouri River and east of Brown's Gulch Road will be closed to all unauthorized entry including motorized vehicles, hiking, hunting and fishing activities. This closure shall remain in effect from October 15 through December 31, 1990. This area is located about 15 miles northeast of Helena, Montana. The purpose of this closure is to prevent disturbance to migrant bald eagles utilizing the area during the period. Authority or this closure is 43 CFR 8341.2.

FOR FURTHER INFORMATION CONTACT: Merle Good, Headwaters Resource Area Manager, P.O. Box 3388, Butte, Montana 59702.

Dated: September 24, 1990.

Orval L. Hadley,
Acting District Manager.

[FR Doc. 90–23343 Filed 10–2–90; 8:45 am]
BILLING CODE 4310–DN–M

[MT–940–08–4520–11]

Land Resource Management; Survey Plat Filings: Montana

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of filing of plat of survey.

SUMMARY: Plat of survey for the following described land accepted September 5, 1990, will be officially filed in the Montana State Office, Billings, Montana, effective 30 days after publication.

Principal Meridian, Montana

T. 1 S., R. 33 E.

The plat representing the dependent resurvey of a portion of the subdivisional lines, a portion of the subdivision of sections 24 and 25, a portion of the reestablished original meander line of sections 24 and 25, a portion of the 1922–1923 adjusted original meanders of the left bank of the Big Horn River, and an island in sections 24 and 25, and the survey of a portion of the medial line of an abandoned channel, certain division of accretion and reliction lines, and certain new meanders of the left bank of the Big Horn River, Township 1 South, Range 33 East, Principal Meridian, Montana.

The triplicate original of the following described plat will be immediately placed in the open files and will be available to the public as a matter of information.

If a protest against this survey, as shown on the plat, is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. The protested plat of survey will not be officially filed until the day after all protests have been accepted or dismissed and become final or appeals from the dismissal affirmed.

This survey was executed at the request of the Bureau of Indian Affairs, Billings, Area Office.

EFFECTIVE DATE: September 19, 1990.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

Dated: September 21, 1990.

Robert W. Faithful,
Acting State Director.

[FR Doc. 90–23344 Filed 10–2–90; 8:45 am]
BILLING CODE 4310–DN–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–311]

Certain Air Impact Wrenches; Notice of Designation of Additional Commission Investigative Attorney

Notice is hereby given that, as of this date, James M. Gould, Esq., of the Office of Unfair Import Investigations is designated as the Commission investigative attorney in the above-cited investigation in addition to George C. Summerfield, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: September 26, 1990.

Lynn I. Levine,
Director, Office of Unfair Import Investigations.

[FR Doc. 90–23372 Filed 10–2–90; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 337-TA-170 (Advisory Opinion Proceedings)]

Certain Bag Closure Clips; Issuance of an Advisory Opinion

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to issue an advisory opinion finding that the importation of certain bag closure clips by Hoan Products, Inc. of Dayton, New Jersey would not violate the general exclusion order issued at the conclusion of the above-captioned investigation.

ADDRESSES: Copies of the advisory opinion and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–252–1000.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–252–1104.

Hearing-impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal, 202–252–1810.

SUPPLEMENTARY INFORMATION: On February 5, 1990, Hoan Products, Inc. (Hoan) of Dayton, New Jersey, filed a request pursuant to Commission interim rule 211.54(b) for an advisory opinion that importation of two types of bag closure clip would not violate the exclusion order issued at the conclusion of Inv. No. 337–TA–170, Certain Bag Closure Clips (Bag Clips). Hoan later withdrew its request as to one type of clip.

On February 27, 1990, the Commission issued an order instituting an advisory opinion proceeding based on Hoan's request. The Commission's order called for briefing by Hoan, the patent holder Chip Clip Corp. (Chip Clip), and the Commission's Office of Unfair Import Investigations. Chip Clip did not respond to the Commission's order.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 211.54(b) of the Commission's Interim Rules of Practice and Procedure (19 CFR 211.54(b))

By order of the Commission.

Issued: September 24, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90–23371 Filed 10–2–90; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 332–292]

California Pesticide Residue Initiative: Probable Effects on U.S. International Trade in Agricultural Food Products

AGENCY: United States International Trade Commission.

ACTION: Notice of request for additional written information.

SUMMARY: Following receipt on May 10, 1990, of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332–292, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) for the purpose of providing information with respect to the following:

(1) The extent to which enactment of the "California Environmental Protection Act of 1990" (Initiative) could create major differences between California and Federal standards for chemical residues in food;

(2) The volume and value, by country of origin, of agricultural fresh and processed food products imported through the ports of California, and the volume and value, by country of origin, of the imported agricultural fresh and processed food products marketed in California;

(3) The volume and value, by country of destination, of agricultural fresh and processed food products exported through the ports of California, and the volume and value, by country of destination, of California agricultural fresh and processed food products which are exported; and

(4) The potential international trade effects which would flow from enactment of the Initiative.

The notice of investigation was published in the **Federal Register** on June 7, 1990 (55 FR 23307).

The Commission submitted in confidence its interim report on the investigation on September 28, 1990. That report addressed the first three items of the USTR's request. It also contained preliminary infomation, including a review of relevant studies obtained during the course of the investigation, on the potential economic trade effects which would flow from enactment of the Initiative (the fourth item listed in the USTR's request). The final report on the investigation, scheduled to be submitted in confidence not later than December 31, 1990, will more fully address the fourth item listed in the request.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Stephen Burket (202–252–1318) or David Ignersoll (202–252–1309), Agriculture Division, Office of Industries, U.S. International Trade Commission. Hearing-impaired persons can obtain information on this study by contacting our TDD terminal on (202) 252–1810.

WRITTEN SUBMISSIONS: Because of the lag in time between the original date for assurance of consideration of written statements submitted in connection with the Notice of investigation (July 24, 1990) and the scheduled submission of the final report to the USTR (Dec. 31, 1990), interested persons are invited to submit additional written statements concerning the fourth item on which the USTR requested information, particularly any quantitative effects on industries as a whole. New information may also be provided on any of the first three items listed in the request. To be assured of consideration, the additional written statements (original plus 14 copies) must be received by the close of business (5:15 p.m.) on November 1, 1990. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform to the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

By order of the Commission.

Issued: October 1, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90–23375 Filed 10–2–90; 8:45 am]

BILLING CODE 7020–02–M

Privacy Act of 1974; Establishment of Systems of Records

AGENCY: International Trade Commission.

ACTION: Final Notice of the Establishment of Systems of Records for the Investigative Files of the Office of Inspector General.

SUMMARY: This notice is published in accordance with the requirements of section 552a(e)(4) of the Privacy Act. The notice describes the establishment of two systems of records for the investigative files of the Office of Inspector General in the U.S. International Trade Commission. These systems will be titled Office of Inspector General Investigative Files (General) and Office of Inspector General Investigative Files (Criminal).

Notice of the new system was published in the Federal Register on May 9, 1990 (55 FR 19371) and interested persons were given until July 8, 1990, to submit comments. The Commission received only one comment, which is descussed below. As a rsult of the comment, the Commission has decided ro split the originally proposed system into two systems as described below.

EFFECTIVE DATE: October 3, 1990.

FOR FURTHER INFORMATION CONTACT: Jane E. Altenhofen, Inspector General, 202–252–2210. Hearing impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202–252–1810.

SUPPLEMENTARY INFORMATION: In accordance with the Inspector General Act Amendments of 1988 (Public Law 100–504, which amended Public Law 95–452 and is codified at 5 U.S.C. App. 3), the Commission established an Office of Inspector General. The functions of the Office of Inspector General, an independent unit within the Commission, include the detection and prevention of fraud, waste and abuse and the promotion of economy and efficiency in Commission programs and operations. The Office may participate in the investigation of those engaging in fraudulent or abusive activities. The Office also reports suspected violations of criminal law to the Attorney General and informs Congress and the Chairman of the Commission about deficiencies and vulnerabilities in the Commission's programs and operations.

The Commission originally proposed the establishment of a single system of IG investigative records, pursuant to the Privacy Act, entitled Office of Inspector General Investigative Files. This system of records was to be maintained solely by the Office of Inspector General and remain separate from other Commission records. The system was to be exempt from certain requirements of the Privacy Act pursuant to sections (j)(2) and (k)(2) of that Act.

In the original notice, the Commission requested comments on the system from interested persons. The Commission received one comment, from Congressman Robert Wise, Chairman of the Government Information, Justice, and Agriculture Subcommittee of the Committee on Government Operations. Congressman Wise objected to the use of the (j)(2) exemption for all of the IG's investigatory records. He suggested, however, that "if an IG office establishes a clearly identifiable subunit that performs as its principal function criminal functions, the separate records of that subunit may qualify for the (j)(2) exemption."

In response to Congressman Wise's comments, the OIG has established two systems of records. The primary system, containing investigatory materials compiled for law enforcement purposes, will be entitled Office of Inspector General Investigative Files (General). The second system, entitled Office of Inspector General Investigative Files (Criminal), will be maintained and used by the OIG's newly established Criminal Investigations Subunit. Both systems will have the same location, categories of individuals covered, categories of system records and record sources. This information is set forth in this notice and is identical to the information set forth in the earlier notice. Both systems of records have the same routing uses, as set forth below.

The Commission will claim an exemption for the geneal system from certain requirements of the Privacy Act pursuant to section (k)(2) of the Act. It will also claim exemptions for the criminal system from certain requirements of the Act pursuant to sections (j)(2) and (k)(2) of the Act. These exemptions are established in rules that are being published as final elsewhere in this issue of the Fedeal Register.

Accordingly, the Commission announces the establishment of the following systems of records for its Office of Inspector General:

System names:

Office of Inspector General Investigative Files (General) and Office of Inspector General Investigative Files (Criminal)

Systems location:

Office of Inspector General, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Categories of individuals covered by the systems:

These systems of records contain records on individuals who are or have been subjects of the Office of Inspector General's investigations relating to the programs and operations of the Commission.

Categories of records in the systems:

The general system will contain investigatory materials collected by the OIG's main unit for law enforcement purposes. The criminal system will contain records maintained by the OIG's criminal investigations subunit, and consisting of information compiled for the purpose of a criminal investigation and associated with an identifiable individual.

The systems will contain documentation of any and all complaints or allegations initiating investigations; all relevant correspondence; witness statements; affidavits; copies of all subpoenas issued; transcripts of any testimony taken in the investigation and accompanying exhibits; documents and other records or copies obtained during the investigation; internal staff memoranda, staff working papers and other documents and records relating to the investigation; and all reports on the investigation.

Authority for maintenance of the systems:

Public Law 95–452, as amended by Public Law 100–504 (5 U.S.C. App. 3)

Routine uses of records maintained in the systems, including categories of users and the purposes of such uses:

Information in the systems may be disclosed, upon assurances that any party receiving the information will comply with the Privacy Act safeguards or provide the maximum protection permitted under the relevant federal, foreign, state, or local laws:

(1) Where there is an indication of a violation or a potential violation of law, whether civil, criminal or regulatory in nature, whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether federal, foreign, state, or local.

(2) To federal, foreign, state, or local authorities in order to obtain information or records relevant to an Office of Inspector General investigation, but only to the extent necessary to explain and justify the need for additional information about the subject individual.

(3) To federal, foreign, state or local governmental authorities maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or

retention of an employee, the issuance of a security clearance, the granting of a contract, or the issuance of a license, grant or other benefit. Information in the systems may be disclosed for these purposes only to the extent necessary to explain and justify the need for additional information about the subject individual.

(4) To federal, foreign, state, or local governmental authorities in response to their request in connection with the hiring or retention of an employee, disciplinary or other administrative action concerning an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the granting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

(5) To non-governmental parties where those parties may have information the Office of Inspector General seeks to obtain in connection with an investigation, but only to the extent necessary to explain and justify the need for additional information about the subject individual.

(6) To independent auditors, investigators, or other private firms with which the Office of Inspector General has contracted to carry out an independent audit or investigation, or to collate, aggregate or otherwise refine data collected in the system of records. These contractors will be required to maintain Privacy Act safeguards with respect to such records.

(7) In response to a court-issued subpoena or a court order to respond to an administrative subpoena in any litigation or other proceeding.

(8) To the Department of Justice and/or the Office of General Counsel of the Commission when the defendant in litigation is: (a) Any component of the Commission or any employee of the Commission in his or her official capacity; (b) the United States where the Commission determines that the claim, if successful, is likely to directly affect the operations of the Commission; or (c) any Commission employee in his or her individual capacity where the Department of Justice and/or the Office of General Counsel of the Commission agree to represent such employee.

(9) To a Congressional office from the district of an individual in response to an inquiry form the Congresional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the systems: storage:

The Office of Inspector General Investigative Files (Criminal) and the Office of Inspector General Investigative Files (General) consist of paper records maintained in binders or folders. The binders and folders are stored in the Office of Inspector General's file cabinets.

Retrievability:

The records are retrieved by the case title, the name of the subject of the investigation, or a unique control number assigned to each investigation.

Safeguards:

These records are available only to those persons whose official duties require such access. The records are kept in limited access areas during duty hours and in secure file cabinets in locked offices at all other times.

Retention and disposal:

The records in these systems will be retained indefinitely.

Systems manager(s) and address:

Inspector General, Office of Inspector General, U.S. International Trade Commission, 500 E Street, SW., Room 220, Washington, DC 20436.

Notification procedure:

Requests to determine whether either of these systems of records contains a record pertaining to the requesting individual may be made by mail in accordance with the procedures set forth in the Commission rules at 19 CFR part 201 subpart D. Requests should be addressed to the Privacy Act Officer, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436. Individuals should clearly indicate both on the envelope and in the letter that it is a Privacy Act request.

Record access procedures:

The procedures for requesting and obtaining access to individual records in a records system are contained in the Commission rules, at 19 CFR part 201 subpart D (§§ 201.22–201.32).

Record source categories:

These files will contain information supplied by the following: Individuals, including those to whom the information relates where practicable; witnesses, corporations, and other entities; records of individuals and of the Commission; records of other entities; federal, foreign, state or local bodies and law enforcement agencies; documents; correspondence; transcripts of testimony; and other miscellaneous sources.

Contesting record procedures:

The procedures for requesting correction or amendment to records maintained in either of these systems are contained in the Commission rules, at 19 CFR part 201 subpart D.

Systems exemptions from certain provisions of the Privacy Act:

Pursuant to 5 U.S.C. 552a(k)(2), the system of records entitled Office of Inspector General Investigative Files (General) is exempt from subsections (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f) of the Privacy Act.

Pursuant to 5 U.S.C. 552a(j)(2), the system of records entitled Office of Inspector General Investigative Files (Criminal) is exempted from all provisions of the Privacy Act except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (9), (10), and (11), and (i).

Both of these exemptions are established in the Commission rules, at 19 CFR 201.32.

Dated: September 26, 1990.

By the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90–23373 Filed 10–2–90; 8:45 am]

BILLING CODE 7020–02

DEPARTMENT OF JUSTICE

Arthur Bursey; Notice of Lodging of Consent Decree

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on September 18, 1990, a proposed Partial Consent Decree in *United States* v. *Arthur Bursey, et al.*, Civil No. 81–299D, was lodged with the United States District Court for the District of New Hampshire resolving the matter as to certain defendants. The proposed Partial Consent Decree concerns the response to the existence of asbestos, a hazardous substance, at certain sites in New Hampshire pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended, and the Resource Conservation and Recovery Act. This Partial Consent Decree resolves the claims of the United States and the State of New Hampshire alleged in the complaint against Anthony Matarazzo and Rose Matarazzo. Two previous consent decree resolved the governments' claims againt the majority of the defendants. There continue to be

unresolved claims against Arthur Bursey.

Under the terms of the Consent Decree, these defendants agree to file a notice of institutional controls and related covenants concerning their site. They also will provide access to the site and undertake the necessary institutional controls.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Bursey*, D.J. Ref. 90–7–1–165.

The proposed Consent Decree may be examined at the Region 1 Office of the Environmental Protection Agency, One Congress Street, Boston, Massachusetts 02203. Copies of the Consent Decree may be examined at the Environmental Enforcement Section Document Center, 1333 F Street, NW., Suite 600, Washington, DC 20044, (202) 347–7829. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $6.50 (25 cents per page reproduction cost) made payable to Consent Decree Library.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 90–23308 Filed 10–2–90; 8:45 am]

BILING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Advisory Panel on the Dictionary of Occupational Titles (APDOT); Open Meeting

AGENCY: Employment and Training Administration, Labor.

SUMMARY: The Advisory Panel on the Dictionary of Occupational Titles (APDOT) was established in accordance with the Federal Advisory Committee Act (Pub. L. 92–463) on August 28, 1990.

The APDOT is being established as part of the Secretary of Labor's Workforce Quality Agenda to improve the quality of the work force. The APDOT will assist the Department of Labor in meeting the goals of the Secretary's Agenda by providing a diversified range of user perspectives on the Dictionary of Occupational Titles (DOT). The DOT is a document which is used extensively in business, education and government. It defines, classifies and describes occupations in the labor market. The last edition of the DOT was published in 1977. The APDOT will provide advice on a new edition.

The APDOT will report to and advise the Assistant Secretary for Employment and Training on the development, publication and dissemination of the DOT.

TIME: The meeting will begin at 9 a.m. on October 24, 1990, and continue until close of business at 5 p.m. that day; and will reconvene at 9 a.m. on October 25, 1990, and adjourn at 2:30 p.m. that day.

PLACE: The Canterbury Hotel, 1733 N Street NW., Washington, DC 20036.

AGENDA: Matters to be considered as part of the agenda for the APDOT meeting include:

Welcome and Introductions
APDOT Goals, Expectations and Operational Procedures
History and Background of DOT
Background on the Scope of the DOT Review Project including:
- Type of occupational information needed
- Basis for selection of occupations
- Ways of organizing and classifying information
- Collection, publication and dissemination of information

PUBLIC PARTICIPATION: The meeting will be open to the public. A half hour (4:15–4:45 p.m.) on October 24 will be set aside for public comments. Individuals wishing to speak to the panel should call Dr. Marilyn Silver at 202–535–0189. Seating will be available for the public on a first-come, first-serve bases.

Individuals or organizations wishing to submit written statements should send 10 copies to Dr. Marilyn B. Silver, Executive director, Advisory Panel on the Dictionary of Occupational Titles, room N4470, U.S. Department of Labor 200 Constitution Avenue NW., Washington, DC 20210. Papers received on or before November 15, 1990 will be included in the record of the meeting.

FOR FURTHER INFORMATION CONTACT: Dr. Marilyn B. Silver, Executive Director, Advisory Panel on the Dictionary of Occupational Titles, room N4470, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, (202) 535–0189.

Signed at Washington, DC, this 27th day of September 1990.

Roberts T. Jones,

Assistant Secretary for Employment and Training.

[FR Doc. 90–23397 Filed 10–2–90; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

White House Conference Advisory Committee Meeting

Date and Time: Oct. 15th 1990—9 a.m. to 9 p.m., Oct. 16th 1990—10:45 a.m. to 4 p.m.

Place: Dupont Plaza Hotel, 1500 New Hampshire Avenue NW., Washington, DC 20036, Ph. 1 202 483–6000.

Advisory Committee in Embassy Room A. Subcommittee meeting rooms to be announced at the meeting.

Status: All meetings are open.

Matters To Be Discussed: White House Conference on Library and Information Services (WHCLIS) Advisory Committee meeting:

Oct. 15, 1990

—9–11:45 a.m.
  —Presentation of plans for the White House Conference on Library and Information Services
—11:45 a.m.—Noon
  —Meeting of Subcommittee Chairs
—Noon–1 p.m. (Working Lunch)
  —National Conference Program Planning
—1:15–2 p.m.
  —Task Group Meetings
—2–5 p.m.
  —Subcommittee Meetings
—5:10–7 p.m.
  —Field Tour for WHCAC Members
—7:30–9 p.m. (Working Dinner)

Oct. 16, 1990

—8:30–11 a.m.
  —Field Tour for WHCAC Members
—11 a.m.–12:30 p.m.
  —WHCAC Chairman's Report
  —Presentation of FY 1991 Spending Plan for WHCLIS
—12:30–2:30 p.m. (Working Lunch)
  —WHCAC Subcommittee Reports
—2:30–3 p.m.
  —Public Comment Time
—3–4 p.m.
  —Future Meeting Dates
  —WHCLIST Update
  —Old and New Business
—4 p.m.
  —Adjourn

Persons appearing before, or submitting only written statements to the Advisory Committee, are asked to hand over to the Committee prior to presenting testimony, 80 copies of their prepared statement. This will insure that ample copies are available for the members of the Advisory Committee, the attending press and the observers.

To request further information or to make special arrangements for

handicapped individuals, contact Mark Scully (1 202) 254–5100, no later than one week in advance of the meeting.

Dated: September 20, 1990.

Mary Alice Hedge Reszetar,

Designated Federal Official for WHCAC NCLIS.

[FR Doc. 90–23319 Filed 10–2–90; 8:45 am]

BILLING CODE 7527–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 25th meeting on October 24–25, 1990, Room P–110, 7920 Norfolk Avenue, Bethesda, MD, 8:30 a.m. until 5 p.m. each day. The entire meeting will be open to the public.

The purpose of the meeting will be to review and discuss the following topics:

- The Committee will be briefed by the DHLWM staff on the "Phase I Demonstration of the Nuclear Regulatory Commission's Capability to Conduct a Performance Assessment for an HLW Repository."
- The Committee will be briefed on a recent report by Sandia National Laboratories which concluded that there is reasonable confidence that compliance of the WIPP facility with the EPA standards is achievable.
- The Committee will hear a briefing for information on Performance Assessment Methodology for an LLW site by NMSS.
- The Committee will be briefed by a member of the NRC's Nuclear Safety Research Review Committee relative to its findings on the NRC's radio-active waste research program.
- The Committee will be briefed on the results of a recent meeting of its human intrusion working group. The committee may also discuss future plans to study requirements for controlling a repository's release of Carbon-14.
- The Committee will discuss the complexities and problems associated with licensing an LLW disposal facility, particularly with respect to siting and the NRC-state interface.
- The Committee will hear an overview of NRC Waste Management related research.
- The Committee will discuss developments related to the Technical Assessment Review (TAR) of geologic and geophysical evidence pertaining to structural geology in the vicinity of the proposed exploratory shaft with one of its consultants.
- The Committee will discuss anticipated and proposed Committee activities, meeting agenda, administrative, and organizational matters, as appropriate. The members will also discuss matters and specific issues which were not completed during previous meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the Federal Register on June 8, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. The office of the ACRS is providing staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the office of the ACRS so far in advance as practical so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the office of the ACRS, Mr. Raymond F. Fraley (telephone 301/492–4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director or call the recording (301/492–4600) for the current schedule if such rescheduling would result in major inconvenience.

Dated September 27, 1990.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 90–23367 Filed 10–2–90; 8:45 am]

BILLING CODE 7590–01–M

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from September 10, 1990 through September 21, 1990. The last biweekly notice was published on September 19, 1990 (55 FR 38596).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Documen Room, the Gelman Building, 2120 L Street, NW, Washington, DC The filing

of requests for hearing and petitions for leave to intervene is discussed below.

By November 2, 1990, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, DC 20555 and at the Local Public Document Room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to **(Project Director)**: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., and at the local public document room for the particular facility involved.

Alabama Power Company, Docket No. 50-364, Joseph M. Farley Nuclear Plant, Unit 2, Houston County, Alabama

Date of amendment request: Augus 27, 1990

Description of amendment request: The proposed changes replace the

existing heatup/cooldown curves found in Technical Specification 3/4.4.10 with new curves applicable through 14 effective full power years (EFPY) of operation. These changes will allow operation of the Joseph M. Farley Nuclear Plant (Farley), Unit 2, beyond the 8 EFPY limit of the existing heatup and cooldown curves. Operation of Farley, Unit 2, could reach the 8 EFPY limit of the existing curves as early as March 23, 1991.

The proposed curves are based on the analysis of surveillance Capsule X that was removed from the Unit 2 vessel after approximately 6.41 EFPY. The analysis of Capsule X is documented by WCAP-12471, "Analysis of Capsule X from the Alabama Power Company, Joseph M. Farley Unit 2 Reactor Vessel Radiation Surveillance Program," submitted to the NRC via Alabama Power Company letter dated April 12, 1990.

Bases section 3/4.4.10 is also being revised to reflect that the proposed heatup/cooldown curves are applicable for 14 EFPY of operation as well as to delete Figure B 3/4.4-1 which is no longer used.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Alabama Power Company (the licensee) has reviewed the proposed changes and has determined that the requested amendment does not involve a significant hazards consideration for the following reasons:

1. The proposed change will not significantly increase the probability or consequences of an accident previously evaluated.

Neither the probability nor the consequence of a previously evaluated accident is increased due to the updated pressure-temperature operating limits. The adjusted reference temperature of the limiting beltline material was used to correct the beltline pressure-temperature curves to account for irradiation effects. Thus, the operating limits are adjusted to incorporate the initial fracture toughness conservatism present when the reactor vessel was new. The adjusted reference temperature calculations were performed utilizing the guidance contained in Regulatory Guide 1.99, Revision 2. The updated curves provide assurance that brittle fracture of the reactor vessel is prevented; therefore, the consequences of a previously evaluated accident are not significantly increased as a result of this change.

2. The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The updated pressure-temperature operating limits will not create the possibility of a new or different kind of accident than previously evaluated. The revised operating limits are merely an update of the old limits by taking into account the effects of irradiation embrittlement, utilizing criteria defined in Regulatory Guide 1.99, Revision 2. The updated pressure-temperature curves are conservatively adjusted to account for the effects of irradiation on the limiting reactor vessel material. No physical changes to the plant are being made, therefore, no new modes of operation are provided.

3. The proposed change does not involve a significant reduction in a margin of safety.

The method for performing analyses to guard against brittle fracture in reactor pressure vessels as presented in "Protection Against Non-ductile Failure," Appendix G to Section III of the ASME Boiler and Pressure Vessel Code has been used. This method utilizes the fracture mechanics concepts and is based on the reference nil-ductility temperature (RT_{ndt}). These methods have been used to set the operating limits for Farley Unit 2 and take into account the effect of irradiation on the reactor vessel materials while maintaining a required margin of safety. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, P. O. Box 1369, Dothan, Alabama 36302

Attorney for licensee: Ernest L. Blake, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Elinor G. Adensam

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: August 9, 1990

Description of amendment request: The proposed amendment would make minor nomenclature changes consistent with Standard Technical Specifications; removes the requirements that the Technical Section Manager must hold a Senior Reactor Operators License; removes the requirement that the Operation Review Committee (ORC) Chairman be the Technical Section Manager; substitutes a requirement of "within 24 hours" for "immediately" for reporting disagreements between ORC members and the Chairman to the Senior Vice President-Nuclear; corrects the reference to 10 CFR 50.36(c)(1)(i) to 10 CFR 50.36(c)(1)(i)(A) concerning actions to be taken if a safety limit is violated; extends the allowable ORC review time from 7 days to 14 days for temporary changes to procedures; and renumbers the pages.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application. In regard to the three standards, the licensee provided the following analysis.

1. Operation of Pilgrim Station in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

This proposed amendment does not alter any equipment configuration or equipment.

Removing the SRO requirement currently imposed on the Technical Section Manager is administrative, is consistent with STS, and allows a wider range of candidates for the position. The removal of the SRO requirements does not affect the safe operation of the plant because the holder of the position must meet the requirements of the American National Standards Institute N18.1-1971, "Selection and Training of Personnel for Nuclear Power Plants," in accordance with Pilgrim Technical Specification 6.3 "Unit Staff Qualifications." Removing the requirement that the ORC Chairman be the Technical Section Manager does not impact plant safety for the same reasons.

Substituting "within 24 hours" for immediately for reporting disagreements between ORC members and the ORC Chairman is to provide a concrete, measurable time period in pace of the vague "immediately." The 24 hour period is consistent with Standard Technical Specifications.

Adding an (A) to correct the reference to 10 CFR 50.36(c)(1)(i)(A) does not impact the safe operation of Pilgrim, and is strictly administrative. Changing "Facility" to "Unit" is a nomenclature change consistent with Standard Technical Specifications and is administrative and does not impact safety. Numbering the pages sequentially is also strictly administrative with no impact on safe operation.

Extending time allowed for the ORC to review temporary changes to procedures from 7 to 14 days is consistent with Standard Technical Specifications. It is an administrative change that is made to reduce the number of special, single-purpose ORC meetings convened solely to satisfy the 7 day requirement.

Adding a reference that 6.9.B was deleted as part of Amendment has no impact on safety. It reflects an earlier amendment and is made to explain the numbering sequence in consideration of the blank pages being removed from Technical Specifications. Deleting "d" from Table 6.9.1 reflects Amendment of March 1, 1986, which incorporated the Radiological Effluent Technical Specifications (RETS) into Pilgrim's Technical Specifications. Amendment makes 6.9.1.d unnecessary and its removal is administrative with no impact on safety.

The proposed changes are administrative and are consistent with Standard Technical Specifications. The proposed changes do not alter the configuration of Pilgrim, or the operation of equipment; hence, the operation of Pilgrim in accordance with the proposed changes does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The operations of Pilgrim Station in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not alter equipment configuration or equipment. It is administrative and is consistent with Standard Technical Specification; therefore, operating Pilgrim Station in accordance with the proposed amendment will not create the possibility of a new or different kind of accident previously evaluated.

3. The operation of Pilgrim Station in accordance with the proposed amendment will not involve a significant reduction in the margin of safety.

The proposed administrative changes do not affect equipment or processes impacting the margin of safety; hence, operating Pilgrim in accordance with the proposed changes does not involve a significant reduction in the margin of safety.

This change has been reviewed and approved by the Operations Review Committee and reviewed by the Nuclear Safety and Audit Committee.

Based upon the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199

NRC Acting Project Director: Victor Nerses

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: August 21, 1990

Description of amendment request: The proposed amendment would change the Technical Specification to remove cycle-specific parameter limits, add alternative requirements for fuel assembling, upgrade the minimum critical power ration (MCPR) safety limits and changes to make the affected Technical Specifications consistent with the "Improved BWR Technical Specifications for BWR/45."

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application. In regard to the three standards, the licensee provided the following analysis.

1. Remove Cycle-specific Parameter Limits

A. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because the cycle-specific limits will still be determined by analyzing the same postulated events previously analyzed. The removal of the cycle-specific limits from the Technical Specifications has no influence or impact on a Design Basis Accident occurrence. Each Design Basis Transient and accident analyses previously addressed will be examined with respect to changes in the cycle dependent parameters using the NRC-approved reload design methodologies to ensure that the transient evaluation of new reloads are bounded by previously accepted analyses. This examination, which will be performed per the requirements of 10 CFR 50.59, will ensure future reloads not involve a significant increase in the probability or consequences of an accident previously evaluated. The plant will continue to operate within the limits specified in the Core Operating Limits Report (COLR) and to take the same actions when, or if, the limits are exceeded as required by the current Technical Specifications.

B. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because no physical alterations of plant configuration, changes to setpoints, or safety limits are proposed. As stated above, the removal of the cycle-specific limits does not influence, impact, nor contribute in any way to the improbability or consequences of any accident. The cycle-specific limits will be calculated using the NRC-approved methods. The Technical Specifications will continue to require operation within the required core operating limits and appropriate actions will be taken when, or if, limits are exceeded.

C. The proposed changes do not involve a significant reduction in a safety margin because they do not affect any operating practices, limits or safety-related equipment. The margin of safety presently provided by the current Technical Specifications remains unchanged. The proposed amendment still requires operation within the core limits as obtained from the NRC-approved reload design methodologies and appropriate actions to be taken if limits are violated. The development of the limits for future reloads will continue to conform to those methods described in the NRC-approved documentation. In addition, each future reload will involve a safety review to assure that operation of the plant within the cycle-specific limits will not involve a significant reduction in a margin of safety.

2. Alternative Requirements for Fuel Assemblies

A. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because any future modification of fuel assemblies must be justified by a cycle-specific reload analysis using an NRC-approved methodology. The reload analysis will postulate the same events previously analyzed using NRC-approved reload design methodologies to ensure the transient evaluation of the new reload core is bounded by previously accepted analyses. This examination, which will be performed per the requirements of 10 CFR 50.59, will ensure the modified reload core will not involve a significant increase in the probability or consequences of an accident previously evaluated. This proposed change will improve the response of the fuel performance program and result in potential reductions in future occupational radiation exposure and plant radiological releases.

B. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because any future modification of

fuel assemblies will be justified using NRC-approved methodology which will ensure conformance to existing design limits and safety analysis bases. This examination, which will be performed per the requirements of 10 CFR 50.59, will ensure the modified reload core will not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed changes do not involve a significant reduction in a safety margin because any future modification of fuel assemblies will be justified using NRC-approved methodology per the requirements of 10 CFR 50.59. This examination will ensure the modification of fuel assemblies does not involve a significant reduction in a safety margin.

3. Upgraded Minimum Critical Power Ratio (MCPR) Safety Limit

A. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The NRC-approved methodology used to derive the upgraded MCPR safety limit of 1.04 applied the same criteria as that used to derive the current MCPR safety limit of 1.07. The upgraded MCPR safety limit value of 1.04 ensures fuel cladding protection equivalent to that provided with the 1.07 safety limit maintained. In the safety evaluation for Amendment 14 to NEDE-21401-P-A (GESTAR-II), dated December 27, 1987, the NRC approved the use of the 1.04 MCPR safety limit for D-lattice BWRs subject to the following constraints: 1) the fuel has a beginning of life R-factor of greater than or equal to 1.04 and consists of fuel types P8 x 8R, BP8 x 8R, GE8 x 8E, or GE8 x 8EB, 2) the fuel is at least 2.80 weight percent U-235 bundle average enrichment, and 3) the lower enrichment bundles residing in the core have operated for at least 2 cycles. Because the Pilgrim Nuclear Power Station currently meets these constraints and will meet them in future reloads, the 1.04 MCPR safety limit provides the same degree of assurance for fuel cladding integrity as the 1.07 MCPR safety limit did for previously reload cores. Thus, the consequences of accidents previously evaluated are not significantly increased. The MCPR safety limit does not affect any physical system or equipment that could change the probability of an accident. Therefore, the proposed change does not involve a significant increase in the probability of any accident previously evaluated.

B. Adoption of the proposed MCPR safety limit value does not affect the function of any component or system. Therefore the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The use of the 1.04 MCPR safety limit reflects the utilization of current General Electric fuel design and does provide the same margin of safety as 1.07 does with older General Electric fuel types as discussed in the previously referenced NRC safety evaluation. Because equivalent fuel cladding protection is provided with the 1.04 MCPR safety limit, the design criterion that 99.9 percent of all fuel rods do not experience boiling transition following any design basis transient is met. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

4. Improved Technical Specifications

A. Proposed changes are made to make selected sections of Technical Specifications consistent with the "Improved BWR Technical Specifications for BWR/4s," contained in NEDC-31681, dated April 1989, as revised. To accomplish this, Technical Specifications were relocated and redundant requirements deleted to clarify the format and improve readability. In addition, the following minor modifications were included.

1. The conditions for applicability for the MCPR and thermal power safety limits are revised to be consistent with Technical Specification bases and restated in psig to be easily compared to plant instrumentation. The result of this change is to increase the range of applicability of the MCPR safety limit (and correspondingly decrease the range of applicability for the thermal power safety limit) by reactor steam dome pressure of 0.3 psid. Specifically, the reactor steam dome pressure of 800 psia converts to 785.3 psig, which is rounded off to 785 psig and results in a difference of 0.3 psid. This change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Current Technical Specification 1.1.C is deleted because it is redundant to the requirements of 10 CFR 50.36(c)(1)(ii)(A) and 10 CFR 50.73(b)(3). In the case that reactor scram is accomplished by indirect means, 10 CFR 50 requires an analysis be performed to determine whether safety limits were exceeded when the direct scram signal failed to perform as expected. Thus, current Technical Specification 1.1.C makes no new requirements and may be deleted.

3. The reactor vessel water level safety limit is revised from not less than 12 inches above the top of active fuel to greater than the top of active fuel. No safety analyses or design basis transients rely on a reactor vessel water level safety limit of 12 inches above the top of active fuel. In addition, the change does not alter the automatic or manual response of the operators or plant equipment to any design basis transient. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

4. An alternative action statement is added to Technical Specification 3.1.B.1 in the event that the maximum fraction of limiting power density (MFLPD) exceeds the fraction of rated power (FRP). Specifically, the APRM gain may be adjusted such that the APRM readings are greater than or equal to MFLPD, in lieu of adjusting the APRM scram and rod block trip setpoints. Both alternative actions result in conservative adjustments in the APRM setpoints and provide adequate protection from exceeding safety limits. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

As discussed above, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. The proposed changes do not involve any changes to plant design or configuration. They only serve to conform the Technical Specifications to "Improved BWR Technical Specifications for BWR/4s." For this reason, the proposed changes do not create the possibility of a new or different kind of accident previously evaluated.

C. The change in the range of applicability of the MCPR and thermal power safety limits of 0.3 psi does not involve a significant reduction in a safety margin. The change in the reactor vessel water level safety limit to the top of active fuel does not involve a significant reduction in a safety margin because it maintains an adequate margin for effective action before the water level reaches two-thirds core height. No fuel damage is predicted if the water level is maintained above two-thirds core height. A reactor vessel water level safety limit of the top of active fuel is consistent with the NRC-approved "Standard Technical Specifications," NUREG-0123, Revision 3, issued Fall 1980 and the "Improved Technical Specifications." Accordingly, the proposed changes do not involve a significant reduction in a safety margin.

5. Administrative Changes

A. The proposed changes include editorial changes to update the Table of Contents, correct grammatical and spelling errors, correct a reference to the Final Safety Analysis Report (FSAR), make the Technical Specification formal consistent, and add text inadvertently deleted in a previous amendment. These changes add to the clarity and readability of Technical Specifications and are considered to be entirely administrative in nature. Accordingly, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because no plant design or configuration changes are involved.

C. The proposed changes do not involve a significant reduction in a safety margin because they do not affect any operating practices, limits, or safety-related equipment.

These changes have been reviewed and approved by the Operations Review Committee and reviewed by the Nuclear Safety Review and Audit Committee.

Based on the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199

NRC Acting Project Director: Victor Nerses

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendments request: August 17, 1987, as supplemented May 30, 1990, June 29, 1990, and July 30, 1990.

Description of amendments request: Carolina Power & Light Company has requested extensions of the expiration dates for the Brunswick Steam Electric Plant (BSEP), Unit Nos. 1 and 2, operating licenses (OL) from the present dates of February 7, 2012, to September 8, 2016, for Unit 1 and February 6, 2010, to December 27, 2014, for Unit 2. The current expiration dates are based upon the construction permit (CP) issuance date of February 7, 1970. At the time the full power OL were issued, it was NRC practice to specify an expiration date of 40 years from the date of CP issuance. This resulted in an effective OL of 33 years and 5 months for Unit 1 and 35 years and 2 months for Unit 2. NRC Regulations (10 CFR 50.51) specify that such licenses be issued for a period not to exceed 40 years. For the past several years it has been the NRC's practice to extend these licenses upon request with adequate justification from the licensee to regain the difference between the OL an CP durations.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Carolina Power & Light Company (the licensee) has reviewed the proposed changes and has determined that the requested amendments do not involve a significant hazards consideration for the following reasons:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because the plant was designed and constructed on the basis of 40 years of plant operation. The original BSEP FSAR analyzed operation of the facility for a minimum of 40 years. Procedures and programs are in place to detect abnormal deterioration and aging of critical plant components. A comprehensive environmental qualification program has been developed for BSEP to ensure that environmental qualification is maintained throughout the life of the facility. No changes to operational restrictions or physical alterations to the facility will be made as a result of this request. The proposed amendment will merely allow a full 40 years operation of the BSEP units.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change introduces no new mode of plant operation nor does it require physical modification to the plant.

3. The proposed amendment does not involve a significant reduction in the margin of safety. The margin of safety established in the original BSEP FSAR is based on a minimum operational period of 40 years. The proposed amendment merely provides this 40-year period.

The licensee has concluded that the proposed amendments meet the three standards in 10 CFR 50.92 and, therefore, involve no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendments do not involve a significant hazards consideration.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: August 17, 1987, as supplemented July 9, 1990.

Description of amendment request: Carolina Power & Light Company has requested an extension of the expiration date for the H. B. Robinson Steam Electric Plant, Unit No. 2, (HBR2) operating license (OL) from the present date of April 13, 2007, to July 31, 2010. The current expiration date is based upon the construction permit (CP) issuance date of April 13, 1967. At the time the full power (OL) was issued, it was NRC practice to specify an expiration date of 40 years from the date of CP issuance. This resulted in an effective OL of less that 37 years. NRC Regulations (10 CFR 50.51) specify that such licenses be issued for a period not to exceed 40 years. For the past several years it has been the NRC's practice to extend these licenses upon request from the licensee with adequate justification to regain the difference between the OL an CP durations.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Carolina Power & Light Company (the licensee) has reviewed the proposed changes and has determined that the requested amendment does not involve a significant hazards consideration for the following reasons:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because the plant was designed and constructed on the basis of 40 years of plant operation. The Robinson Plant Environmental Report and FSAR [Final Safety Analysis Report] analyzed for a minimum of 40 years of operation. Procedures and programs are in place to detect abnormal deterioration and aging of critical plant components. A comprehensive environmental qualification program has been developed for the Robinson Plant to ensure that environmental qualification is maintained throughout the life of the facility. No changes to operational restrictions or physical alterations to the facility will be made as a result of this request. The proposed amendment will merely allow a full 40 years operation to the HBR2.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change introduces no new mode of plant operation nor does it require physical modifications to the plant.

3. The proposed amendment does not involve a significant reduction in the margin of safety. The margin of safety established in the Robinson Plant FSAR is based on a minimum operational period of 40 years. No modifications have been made to the Robinson Plant which adversely affect the conclusions of the Robinson Plant FSAR. The proposed amendment merely provides this 40-year period.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and,

therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: August 21, 1990, as supplemented September 19, 1990.

Description of amendment request: The requested changes to the Technical Specifications: (a) upgrade the plant vent radiation monitor (particulate, iodine, and noble gas detection), (b) upgrade the stack flow monitor and incorporate isokinetic sampling of the plant vent effluents, (c) provide new control room indication and recording equipment for the upgraded instrumentation, and (d) permanently divert the condenser air ejector discharge from the atmospheric vent to the plant vent and remove the automatic divert interlock from the condenser air ejector radiation monitor. These changes are required as a result of Plant Modification M-1005 which removes, modifies, and installs radiation detection equipment related to the plant vent system. Additionally, a change is desired to the required actions of the radiation monitors (RMS-11 and 12) to assure adequate effluent accountability for containment vessel (CV) releases when containment integrity is not required and the associated effluent monitoring instrumentation is out of service.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Carolina Power & Light Company (the licensee) has reviewed the proposed changes and has determined that the requested amendment does not involve a significant hazards consideration for the following reasons:

1. Operation of the facility, in accordance with the proposed amendment, would not involve a significant increase in the probability or consequences of an accident previously analyzed.

Regarding the probability of previously analyzed accidents, the instrumentation changes which require the proposed amendment merely provide effluent accountability. Neither the existing monitors nor the new monitors participate in any accident sequence, therefore, the new monitors cannot increase the probability of any accident previously evaluated. This proposed amendment does not increase the probability of a previously evaluated accident because it upgrades instrumentation designed to follow the course of an accident and thereby reduces the probability of equipment malfunction. This equipment does not perform any control function associated with any analyzed accident.

Regarding the consequences of an accident previously analyzed, the equipment which requires the proposed amendment is not required to function to mitigate the consequences of an accident. Further, eliminating the need to divert condenser discharge from the atmospheric vent to the plant vent on high activity levels eliminates the consequences of equipment malfunction since the condenser air radiation monitor no longer performs a control function. Replacing the two plant vent gas monitors with a single monitor does not increase the consequences of an equipment malfunction since the two monitors do not perform redundant waste gas system isolation function and the capability to obtain grab samples of the plant vent is provided and required in the event of a failure of the plant vent monitor.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The equipment changes which require the proposed amendment upgrade plant vent monitoring equipment and permanently divert condenser air ejector discharge to the plant vent. The new equipment performs the same function as the existing equipment. No different operating conditions or functions associated with this project are created, therefore, the proposed amendment does not create the possibility of a new or different accident from any accident previously evaluated.

3. Operation of the facility, in accordance with the proposed amendment, would not involve a significant reduction in a margin of safety.

Although the plant vent radiation monitor does not perform any safety related functions to prevent or to mitigate the consequences of any analyzed and unanalyzed accidents, its operation is a Technical Specification item and is required to monitor and assure that plant operation is within limits. The five detectors associated with the replacement plant vent radiation monitoring system have equal or greater equipment performance specifications compared to the existing detectors.

The detection of particulate radiation also improves because the new isokinetic sample nozzles have a greater particle collection efficiency. The replacement plant vent radiation monitors are installed in the same location as the existing off line detectors, so there is no significant change in the sample transport tubing. Therefore, there is no significant decrease in a margin of safety.

This effort requires changes to the plant Technical Specifications to correctly identify instrumentation which monitor plant gaseous effluents. The Technical Specifications will also be revised to eliminate the requirements of the condenser evacuation system radiation monitoring equipment. This equipment is no longer a Technical Specification requirement since effluents from this system are discharged to the plant vent and are monitored by the plant vent radiation detection equipment. At present, there are two low range noble gas detectors monitoring the plant vent. One detector provides isolation of the waste gas system on high activity level plus indication and alarm functions. The second detector provides indication and alarm functions only. These two low range noble gas detectors are replaced with a single low range gas detector. This single detector provides control, indication, and alarm functions of the existing two detectors. The new detector incorporates present-day technology with highly reliable components for improved performance and operability. Manual sampling of the specific release paths and of the plant vent are required by the operating procedures should the plant vent monitor fail; therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power &

Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: August 29, 1990

Description of amendment request: Modification is required as a result of evaluations that were conducted pursuant to the requirements of NUREG-0737, Item III.D.3.4, Control Room Habitability. The control room filter system previously identified in the Technical Specifications (TS) is being replaced with a new system.

The TS Section 3.15 specification of operability will be revised to identify active and passive components and redundancy of active safety-related components. The basis is revised to consider radiation exposure limits specified in 10 CFR 50, Appendix A, General Design Criterion 19, Control Room.

Technical Specification Section 4.15 defines the revised surveillance requirements for the control room air conditioning system. Requirements will be added for temperature and pressure testing and staggered testing of redundant equipment.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Carolina Power & Light Company (the licensee) has reviewed the proposed changes and has determined that the requested amendment does not involve a significant hazards consideration for the following reasons:

A. Would the operation of the facility involve a significant increase in the probability or consequence of an accident previously evaluated?

The probability of occurrence of any Chapter 15 accident previously evaluated is not increased by this modification and Technical Specification change because neither the Control Room Habitability System proposed nor the system being replaced contribute to the probability of any previously evaluated accident. The reliability and availability of the new system is enhanced over that of the old system (pre-refueling outage 13) due to the redundancy of the safety-related active components provided. Properly coordinated power supplies are provided for the new equipment.

There is no increase in the consequences of an accident previously evaluated. Instead, the consequences of an accident are reduced because of the reduction in the radiological dose to the control room operators resulting from an improved filter system and the reduction of unfiltered in leakage into the control room. Also, redundancy of active safety-related components enhances system availability and reliability.

The dose calculations for the modifications to the Control Room Habitability System demonstrate that the dose to the control room operators does not exceed the limits established by 10 CFR 50, Appendix A, General Design Criterion 19, "Control Room."

B. Would the operation of the facility create the possibility of a new or different kind of accident from any accident previously evaluated?

The possibility of a new kind of accident from any accident previously evaluated will not be created by this modification and Technical Specification change. The Control Room Habitability System interfaces with the safety-related electrical distribution system and the safety-related service water system. Proper coordination of power supplies is provided; the service water system addition design considers the additional demand on the service water system and is designed to Seismic Class 1 requirements. The redundancy of safety-related active components provided by this modification increases the reliability of the Control Room Habitability System to perform its function. Adequate separation between safety trains is provided to assure that a single failure of an active component will not result in system inoperability. No single active failure can cause adverse conditions resulting in new accident scenarios but bounded by present accident analyses.

The possibility of a different kind of accident from any accident previously evaluated will not be created by this modification and Technical Specification change. The Control Room Habitability System interfaces with the safety-related electrical distribution system and the safety-related service water system. Proper coordination of power supplies is provided; the service water system addition design considers the additional demand on the service water system and is designed to Seismic Class 1 requirements. The redundancy of safety-related active components provided by this modification increases the reliability of the Control Room Habitability System to perform its function. Adequate separation between safety trains is provided to assure that a single failure of an active component will not result in system inoperability. No single active failure can cause adverse conditions resulting in new accident scenarios not bounded by present accident analyses.

C. Would the operation of the facility involve a significant reduction in the margin of safety?

The margin of safety is enhanced by this modification and Technical Specification change. Redundancy of equipment is provided where it did not previously exist. Radiological conditions for control room operators are improved due to the higher efficiency charcoal bed and the reduced unfiltered inleakage thereby improving the ability of the operator to respond to the accidents previously evaluated.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: September 10, 1990.

Description of amendment request: The proposed amendment would revise the Reactor Coolant System (RCS) Pressure/Temperature Limits of Technical Specifications (TS) 3.4.9.1 and 3.4.9.2 to protect the reactor pressure vessel (RPV) from the potential of brittle fracture as the RPV neutron exposure increases from three (3) effective full power years (EFPY) to five (5) EFPY.

In addition, the low pressure overpressure protection (LTOP) set points are adjusted accordingly and an effective lower temperature limit for usage of the LTOP set points has been added to ensure that the setpoints are used only in the region where the system can provide the necessary protection.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a no significant hazards consideration exists. A proposed amendment to an operating

license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability of consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

Carolina Power & Light Company (the licensee) has reviewed the proposed changes and has determined that the requested amendment does not involve a significant hazards consideration for the following reasons:

1. The proposed amendment does to involve a significant increase in the probability or consequences of an accident previously evaluated as described below.

Technical Specifications 3.4.9.1 and 3.4.9.2 "REACTOR COOLANT SYSTEM PRESSURE/TEMPERATURE LIMITS" provide RCS pressure-temperature limits to protect the reactor pressure vessel from brittle fracture by clearly separating the region of normal operations from the region where the vessel is subject to brittle fracture. The heatup and cooldown rates of Specifications 3.4.9.1 and 3.4.9.2, and LTOP setpoints in Specification 3.4.9.4 are designed to ensure that the 10 CFR 50 Appendix G pressure-temperature limits for the RCS are not exceeded during any condition of normal operation including anticipated operational occurrences and system hydrostatic tests.

General Design Criterion 31 of Appendix A to 10 CFR 50 requires that the reactor coolant boundary shall be designed with sufficient margin to assure that when stressed under operating, maintenance, testing, and postulated accident conditions (1) the boundary behaves in a nonbrittle manner and (2) the probability of rapidly propagating fracture is minimized.

Title 10 of the Code of Federal Regulations Part 50 Appendix G, "Fracture Toughness Requirements," requires the effects of changes in the fracture toughness of reactor vessel materials caused by neutron radiation throughout the service life of nuclear reactors to be considered in the pressure-temperature limits. The 'change' is used in conjunction with the initial material reference temperature (RT_{NDT}) to establish the limiting pressure-temperature curves. Regulatory Guide 1.99 contains procedures for calculating the effects of neutron radiation embrittlement of the low-alloy steels currently used for light-water-cooled reactor vessels.

Using the RG 1.99 Revision 2 and Appendix G to 10 CFR 50, new Nil Ductility Reference Temperatures (RT_{NDT}) and limiting pressure-temperature curves were prepared for the projected reactor vessel exposure at five Effective Full Power Years (EFPY) of operation. These new curves in conjunction with the associated changes in the heatup and cooldown ranges and the existing Low Temperature Overpressure Protection System setpoints provide the required assurance that the reactor pressure vessel is protected from brittle fracture up to five EFPY of operation.

Therefore, the proposed amendment to the pressure-temperature limitations, the heatup and cooldown ranges, and the recalculated limiting material (RT_{NDT}) do not involve a significant increase in the probability or consequences of an accident previously evaluated; collectively they maintain the required buffer necessary to protect the reactor vessel from brittle fracture given a limiting mass or temperature input to the RCS for up to five EFPY of operation.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This amendment does not introduce any new equipment, operating procedures or constraints. It simply adjusts the existing operating limits to compensate for the shift in the nil ductility reference temperature of the reactor vessel due to neutron exposure. Therefore no new accident or malfunction mechanism is introduced by this amendment.

3. The propose amendment does not involve a significant reduction in the margin of safety.

The heatup and cooldown rates of Specifications 3.4.9.1 and 3.4.9.2, and LTOP setpoints in Specifications 3.4.9.4 are designed to ensure that the 10 CFR 50 Appendix G pressure-temperature limits for the RCS are not exceeded during any condition of normal operation including anticipated operational occurrences and system hydrostatic tests.

New Nil Ductility Reference Temperatures and limiting pressure-temperature curves were prepared for the projected reactor vessel exposure at five Effective Full Power Years of operation. This resulted in a lowering of the Appendix G curves. To compensate, the effective ranges to the heatup and cooldown rates were shifted, where necessary, in order to maintain the reactor vessel protection provided by LTOPs.

The revised heatup and cooldown ranges, in conjunction with the current rates and LTOP setpoints ensure that the Appendix G pressure-temperature curves are not challenged given a limiting mass or heat input to the RCS during normal operations, anticipated occurrences and system hydrostatic testing.

Since restrictions remain in place to ensure the Appendix G operating limits of the reactor vessel are not challenged, the margin of safety defined in the Technical Specification Bases is not significantly reduced by this change.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: July 17, 1990

Description of amendment request: The proposed amendment would add the Centerior Service Company as a licensee to Facility Operating Licensee NPF-58 for the Perry Nuclear Power Plant (PNPP). The proposed addition would authorize both the Cleveland Electric Illuminating (CEI) Company and Centerior Service Company (wholly-owned subsidiaries of Centerior Energy Corporation) to act as agents on behalf of the other licensees for the PNPP, and have exclusive responsibilty and control over the physical construction, operation and maintenance of the facility.

Under the proposed reorganization of Centerior Energy Corporation, the CEI Nuclear organization would report to Centerior Service Company. As a result, the PNPP Technical Specifications would be revised to reflect a change in the title of the CEI Vice President-Nuclear Group to Centerior Service Company Vice President, Nuclear-Perry.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensees have provided the following analysis of no significant hazards considerations using the Commission's standards.

This proposed amendment does not involve a significant increase in the probability or consequences of an accident previously

evaluated since this is an administrative change which only involves the addition of an additional licensee into the Operating License (OL), and a title change for the Vice-President in charge of the nuclear organziation. As noted above, technical qualifications necessary to operate PNPP continue to be provided by the previously approved CEI nuclear organization, and well-defined lines of authority, responsibility and communication continue to exist for all activities affecting the safety of the plant. The additional licensee being added to the OL is a wholly owned subsidiary of the same corporation to which the current owner/operator (CEICO) belongs. These changes do not make any changes to plant systems or have any affect[sic] on accident conditions or assumptions. They also do not affect possible initiating events for accidents previously evaluated, or any system functional requirements.

The proposed amendment does not create the possibility of a new or different kind of accident since it is an administrative change which only involves designation of licensees and the title of a management representative. The proposed changes do not create the possibility of a new or different accident since they do not affect the reactor coolant pressure boundary or other plant systems or structures in such a manner that could initiate any new or different accidents, and since they do not adversely affect any system functional requirements nor plant maintenance or operability requirements.

The proposed amendment does not involve a significant reduction in the margin of safety since it is administrative in nature, and does not affect any USAR design or accident assumption, nor any Technical Specification bases.

The staff has reviewed the licensees' no significant hazards consideration determination and agrees with the licensees' analysis. Therefore, the staff proposes to determine that the licensees' request does not involve a significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon.

Commonwealth Edison Company, Docket No. 50-265, Quad Cities Nuclear Power Station, Unit 2, Rock Island County, Illinois

Date of application for amendment: August 31, 1990

Description of amendments request: Commonwealth Edison Company, the licensee, submitted an application to amend the Technical Specifications of Operating License No. DPR-29 for Quad Cities Nuclear Power Station, Unit 2. This application would change the Technical Specifications to reflect the use of generically approved fuel type GE 8x8NB and the resultant change in the Minimum Critical Power Ratio (MPCR) safety limit from 1.07 to 1.06.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided the following analysis of no significant hazards consideration using the Commission's standards.

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The primary fission product barrier will continue to be protected during normal and transient operation. Operation of all secondary fission product barriers are unaffected by this change.

The 1.06 MCPR safety limit value will preserve the required margin of safety for clad integrity. This MCPR safety limit ensures that 99% of the fuel rods would be expected to avoid boiling transition during steady-state or transient conditions with a 95% confidence level. The new fuel type (GE8x8NB) and analytical methods for establishing the safety limit have received NRC approval. Thus, this change does not increase the probability or consequences of a previously evaluated accident.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The primary fission product barrier will continue to be protected during normal and transient operation. Operation of all secondary fission product barriers are unaffected by this change. No new operational modes are introduced by this change. Thus, the possibility of new or different accidents is not created.

3. The proposed change does not involve a significant reduction in the margin of safety.

The required margin will be maintained for all fuel types and increased for some fuel types. The proposed Technical Specification change reflects the required safety limit for GE8x8NB fuel, while establishing a MCPR safety limit that is more conservative than required for all other fuel types. The margin of safety is therefore not significantly reduced.

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; and does not involve a reduction in the required margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Consumers Power Company, Docket No. 50-155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: August 14, 1990

Description of amendment request: The amendment would revise Technical Specifications Section 6.2.2.g(4), 6.5.1.2, and 6.3.4 to reflect changes in the organizational structure of the Operations and Engineering Departments. The proposed changes would:

a) remove the reference to titles from the portion of the Technical Specifications dealing with working hour limitations,

b) modify the composition of the Plant Review Committee, and

c) change the title of the individual required to hold a Senior Reactor Operators License and responsible for directing the activities of licensed operators.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The licensee provided an analysis that addresses the above three standards in the amendment application. The licensee stated that the changes do not involve a significant

hazards consideration for the following reasons:

(1) Does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The organizational changes do not affect plant operation. Essential elements of the organizational structure have been retained through the addition of general requirements modeled after the guidance and philosophy provided in Generic Letter 88-06.

(2) Does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes are administrative in nature. No modifications to plant equipment, changes to setpoints or operating limitations are being proposed. Therefore, the changes do not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Does not involve a significant reduction in the margin of safety.

The proposed changes continue to endorse the guidelines for a "Unit Review Group" which require a chairman and a minimum of four members. The licensee will continue to maintain its Quality Assurance Program implementation to assure equivalent performance of its organizational elements.

The NRC staff has reviewed the licensee's no significant hazards consideration determination analysis and agrees with its conclusion. Therefore, the staff proposes to determine that the requested amendment involves no significant hazards consideration.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Robert C. Pierson

Consumers Power Company, Docket No. 50-155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: August 15, 1990

Description of amendment request: The amendment would modify Technical Specification 1.1.4 in accordance with the guidance in Generic Letter 89-14, "Line Item Improvement in Technical Specification - Removal of the 3.25 Limit on Extending Surveillance Intervals." Technical Specification 1.1.4 currently permits surveillance intervals to be extended up to 25 percent of the specified interval. However, this Technical Specification limits extending surveillance intervals, so that the combined time intervals for any three consecutive surveillances do not exceed 3.25 times the specified intervals. The proposed change would delete the 3.25 extension limitation. The surveillance interval will still be constrained by the 25 percent interval extension criterion of T/S 1.1.4.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92, and has determined the following:

Criterion 1

Deletion of the 3.25 extensions limitation will not significantly affect equipment reliability and does not affect the probability or consequences of accidents previously evaluated. The surveillance interval will still be constrained by the 25 percent interval extension criteria of T/S 1.1.4. The risk to safety is low in contrast to the alternative of a forced shutdown to perform these surveillances. A safety benefit is incurred when a surveillance interval is extended at a time that conditions are not suitable for performing the surveillance; such as, during transient operating conditions or conditions in which safety system are out of service because of ongoing maintenance or other surveillance activities.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2

The proposed revision to the T/S will not result in any physical alteration to any plant system, nor would there be a change in the method by which any safety-related system performs its function.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3

Deletion of the requirement that any three consecutive surveillance interval shall not exceed 3.25 times the interval will not significantly affect equipment reliability, rather it will reduce the potential to interrupt normal plant operations due to surveillance scheduling. This proposed revision will allow all surveillance intervals to be constrained by the maximum allowable extension of 25 percent of the specified surveillance interval, which may enhance safety when used during plant operation.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's no significant hazards analysis and concurs with the licensee's conclusions. Therefore, the staff proposes to determine that the requested change does not involve a significant hazards consideration.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Robert C. Pierson

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: September 4, 1990

Description of amendment request: The proposed amendments would reduce the required measured reactor coolant system flowrate by one percent from 97220 GPM/loop to 96250 GPM/loop. Also, an administrative change is being made to delete references to the RTD bypass manifold system. This system was removed from both McGuire units and previously approved by the NRC in Facility Operating License Amendment Nos. 84 (Unit 1) and 65 (Unit 2).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

With regard to the proposed amendments, the licensee states that the changes do not involve a significant hazards consideration and has provided the following in support of that determination:

1. This amendment will not significantly increase the probability or consequences of any accident previously evaluated.

No component modification, system realignment, or change in operation will occur which could affect the probability of any accident or transient. The reduction in flow will not change the probability of actuation of any Engineered Safety Feature (ESF) or other device. The consequences of previously analyzed accidents have been found to be insignificantly different if a 1% lower flow rate is assumed in the analyses.

The system transient response is not affected by the initial RCS flow assumption, unless the initial assumption is so low as to impair the steady-state core cooling capability or the steam generator heat transfer capability. This is clearly not the case with a 1% reduction in RCS flow.

2. This amendment will not create the possibility of any new or different accident not previously evaluated.

No component modification, system realignment, or change in operating procedure will occur which could create the probability of a new event not previously considered. The reduction in flow will not initiate any new events. All credible accident scenarios have been considered.

3. This amendment will not involve a significant decrease in a margin of safety.

As described in Attachment II [licensee's September 4, 1990, application], the decrease in RCS flow has been analyzed and found to have an insignificant effect on the applicable transient analyses in the FSAR. The reduced flow rate resulted in slightly reduced DNB limits. Figure 2.1-1 provides revised core safety limits for T-avg. as a function of power at the reduced flow rate. These limits will provide equivalent assurance that operating parameters will remain acceptable.

The Axial Flux Difference limits given in T.S. 3/4.2.1 are unchanged, and all of the current thermal hydraulic design criteria are satisfied at the reduced flow conditions. The current overtemperature delta T and overpower delta T setpoints are conservative and provide the necessary protection. However, the dead band of the f(delta I) function (see Note 1 of Table 2.2-1) was revised from -29% greater than $q_t - q_b$ greater than +9% to -29% greater than $q_t - q_b$ greater than +7%. The effect of this change is to assure protection in the event of a power imbalance between the top and bottom of the core. No margins of safety are reduced by these changes.

The Commission has made a preliminary review of the licensee's no significant hazards consideration including the licensee's assessment of the impact of the requested amendments on the Final Safety Analysis Report accident analyses and agrees with the licensee's determination. Accordingly, the Commission proposes to determine that the proposed amendments do not involve a significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242-0001

NRC Project Director: David B. Matthews

Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of amendment request: August 16, 1990

Description of amendment request: The proposed license amendment would revise the Independent Safety Engineering Group (ISEG) reporting and administrative requirements. These changes are needed as a result of organizational changes within the Nuclear Energy Department.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee provided the following discussion regarding the above three criteria.

Criterion 1

Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes are administrative in nature and do not affect Technical Specifications that preserve safety analysis assumptions. Additionally, these changes do not modify the physical design and/or operation of the plant. Therefore, the proposed changes do not affect the probability or consequences of accidents previously analyzed.

Criterion 2

Use of the modified specification would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The changes being proposed are administrative in nature and will not lead to material procedural changes or to physical modifications to the facility. Therefore, the proposed changes do not create the possibility of a new or different kind of accident.

Criterion 3

Use of the modified specification would not involve a significant reduction in a margin of safety.

The changes being proposed are administrative in nature and do not relate to or modify the safety margins defined in or required and maintained by the Technical Specifications.

The changes proposed amend the Independent Safety Engineering Group (ISEG) administrative control and reporting requirements and will focus the control, reports and reporting requirements of the ISEG to the Chairman, Company Nuclear Review Board. Florida Power & Light Company (FPL) will thus ensure the most efficient and effective use of the ISEG's products. However, changing the administrative control and reporting requirements will not affect any margin of safety.

Based on the above, we have determined that the proposed amendment does not (1) involve significant increase in the probability or consequences of an accident previously evaluated, (2) create the probability of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety; and therefore does not involve a significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the proposed changes to the TS involve no significant hazards considerations.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, N.W., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: August 28, 1990

Description of amendment request: The proposed amendment would modify the Technical Specification requirements of the Facility Review Committee (FRC) and the Nuclear Review Board (NRB) by deleting the specific composition list for each and replacing it with general statements defining levels of expertise for membership. Additional proposed changes include the NRB quorum, alternates, and an editorial change that deletes a reference to the initial year of operation, which has been completed. Requirements regarding meeting frequency, audit/review areas, and records will remain unchanged.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from

any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application.

Criterion 1: Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes are administrative in nature and do not affect assumptions contained in the safety analyses nor do they affect technical specifications that preserve safety analysis assumptions. Additionally, these changes do not modify the physical design and/or operation of the plant. Therefore, the proposed changes do not affect the probability or consequences of accidents previously analyzed.

Criterion 2: Use of the revised specifications would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The changes being proposed are administrative in nature and will not lead to material procedural changes or to physical modifications to the facility. Therefore, the proposed changes do not create the possibility of a new or different kind of accident.

Criterion 3: Use of the modified specification would not involve a significant reduction in a margin of safety.

The changes being proposed are administrative in nature and do not relate to or modify the safety margin defined in or required and maintained by technical specifications. The deletion of the specific composition list of the FRC and NRB members will not decrease the effectiveness of these organizations. Administrative controls are in place to control membership, qualifications and review requirements for both the onsite review activity and the independent review program.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions, the staff agrees that due to the administrative nature of the proposed changes, a significant increase is not involved in the probability or consequences of a previously evaluated accident. The proposed changes would not create the possibility of a new or different kind of accident from any previously evaluated, and they would not involve a significant reduction in the margin of safety. Therefore, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

NRC Project Director: Christopher I. Grimes

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: December 18, 1989 and supplemented July 30, 1990. The December 18, 1989, submittal was previously noticed April 4, 1990 (55 FR 12594).

Description of amendment request: The proposed change would revise the description of the Plant Operations Committee (PORC) and Nuclear Safety Review Board (NSRB) compositions included in the plant's technical specifications 6.5.1.1 and 6.5.2.2, respectively. Currently, the composition of both groups is defined by organizational titles. In the proposed change for the PORC, the members shall be senior experienced onsite individuals, at the manager level or equivalent, representing each of the following disciplines: engineering, operations, chemistry, health physics, quality assurance/quality control, and maintenance. One of the members shall meet the requirements for a Radiation Protection Manager. Originally (December 18, 1989), the NSRB would be comprised of a full time chairman and at least four individuals who have obtained the position of area manager. The July 30, 1990, submittal contained a revised mark-up of Section 6.5.2.2. The proposed NSRB would be comprised of senior managers reporting to at least the vice presidential level within the licensee organization. Additional members shall be appointed so that the NSRB will have the capability to review technical matters identified in Technical Specification 6.5.2.1, namely; nuclear power plant operations, nuclear engineering, chemistry and radiochemistry, metallurgy, instrumentation and control, radiological safety, mechanical and electrical engineering, civil engineering, training, nuclear assurance, nuclear licensing, plant security, and environmental impact.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application. Based on the staff review, the proposed changes will change neither the technical disciplines required nor the level of expertise represented on the committees. The function of the PORC will remain unchanged. With respect to the NSRB, the members will continue to be qualified in accordance with ANSI 3.1-1981 and Regulatory Guide 1.8. Consequently, the changes are considered administrative. The staff has reviewed the licensee's no significant hazards consideration determination. For the reasons stated above, the staff believes these proposed amendments involve no significant hazards consideration.

Local Public Document Rooms Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton Texas 77488

Attorney for licensee: Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street, NW, Washington, DC 20036

NRC Project Director: Christopher I. Grimes

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: December 21, 1988

Description of amendment request: The proposed amendment would add a note to Technical Specification 3/4.4.1.3 to specify that the recirculation loop flow is the summation of the flows from all of the jet pumps associated with a single recirculation loop.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) Create the possibility of a new or different kind of accident from any accident previously evaluated, or (3)

Involve a significant reduction in a margin of safety.

The licensee has reviewed the proposed request and has provided the following no significant hazards consideration determination:

(1) The proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated because the proposed clarification to Technical Specification 3/4.4.1.3 will ensure that the correct parameter is monitored such that the intent of the Specification is satisfied.

(2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because it will not result in any changes to plant design parameters or change any mode of plant operation, and will not create any new failure mode for the plant.

(3) The proposed change does not involve a significant reduction in any margin of safety. The proposed clarification to Technical Specification 3/4.4.1.3 will clarify the intent of the subject Specification. Therefore, the plant will continue to be operated in accordance with the margins assumed in pertinent design calculations.

The NRC staff has reviewed the licensee's analysis and agrees with the licensee's conclusions. Therefore, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: John N. Hannon

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: June 30, 1989

Description of amendment request: The proposed amendment would delete the upper limit on the values for the heat energy required to be dissipated from the heaters for the Standby Gas Treatment System and the Control Room Ventilation System.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) Create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) Involve a significant reduction in a margin of safety.

The licensee has reviewed the proposed request and has provided the following no significant hazards consideration determination:

(1) The proposed change does not involve a significant increase in the probability or consequences of a previously analyzed accident. The VG and VC system heaters operate to reduce the relative humidity in the VG and VC charcoal beds following initiation of these systems. Since these systems are initiated following the onset of an accident the heaters can not impact the probability of occurrence of an accident. The minimum required heat dissipation rate for these heaters is not changed and the heaters will continue to be required to function in accordance with their design requirements. Therefore, there is no change in the consequences of an accident.

(2) This proposed change does not create the possibility of a new or different kind of accident. The proposed change is applicable only to the heat dissipation capability of the VG and VC system heaters and does not involve any change to the plant's physical configuration or the operation of any plant systems.

(3) The proposed change does not involve a significant reduction in a margin of safety. The proposed change does not involve a reduction in the minimum required heat output of the heaters therefore the heaters would continue to reduce the relative humidity, when required, to the levels assumed in the safety analysis. The over-temperature cutout prevents any overheating concerns.

The NRC staff has reviewed the licensee's analysis and agrees with the licensee's conclusions. Therefore, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: John N. Hannon

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: June 30, 1989

Description of amendment request: The proposed amendment would add a 3.0.4 exemption to ACTION requirements associated with Technical Specification 3.5.2 (Emergency Core Cooling Systems - Shutdown), 3.9.11.1 (Refueling Operations, Residual Heat Removal and Coolant Circulation, High Water Level), and 3.9.11.2 (Refueling Operations, Residual Heat Removal and Coolant Circulation, Low Water Level).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) Create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) Involve a significant reduction in a margin of safety.

The licensee has reviewed the proposed request and has provided the following no significant hazards consideration determination:

(1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes to Specifications 3.9.11.1 and 3.9.11.2 do not involve a significant degradation in decay heat removal and/or coolant circulation requirements since decay heat removal and/or coolant circulation is provided for in the ACTION requirements of the affected Specifications. The proposed change to Specification 3.5.2 does not constitute a significant reduction in ECCS water makeup capability since only OPERATIONAL CONDITIONS 4 AND "5*" are affected, and during these conditions one ECCS subsystem/system is sufficient for water makeup requirements for the short time (four hours) allowed by ACTION "a" of Specification 3.5.2. Furthermore, the proposed changes do not involve a significant increase in the probability or consequences of the primary postulated accidents associated with shutdown conditions (inadvertent criticality and fuel handling accident) since those accident are prevented or mitigated by other controls, design features, and requirements.

(2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change does not involve any changes to plant design nor does it involve a significant change in plant operation from what is currently allowed by the Technical Specifications. The impact of the proposed changes is limited strictly to the potential effect of ECCS availability and core decay heat removal/coolant circulation relative to the volume of water contained in the reactor cavity/upper containment pools during Mode 5 (excluding fuel handling operations). IP believes that the proposed changes do not involve a significant change to the requirements for meeting these concerns during these conditions.

(3) The proposed change does not involve a significant reduction in a margin of safety assumed or required in any accident or transient analysis. As noted above, the proposed changes do not involve a significant reduction in core decay heat removal capability or ECCS makeup capability for the applicable plant conditions.

The NRC staff has reviewed the licensee's analysis and agrees with the licensee's conclusions. Therefore, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: John N. Hannon

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: June 30, 1989

Description of amendment request: The proposed amendment would delete the operability requirement for certain valves dedicated to the Residual Heat Removal system steam condensing mode which the licensee has committed not to use.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) Create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) Involve a significant reduction in a margin of safety.

The licensee has reviewed the proposed request and has provided the following no significant hazards consideration determination:

(1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change will remove the requirement to maintain OPERABILITY of the RS system controls for valves 1E12-F052A/B and 1E12-F026A. These valves are only used during operation of the RHR system in the steam condensing mode which is not allowed by the CPS procedures and precluded through appropriate controls in accordance with established commitments.

(2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not involve any change to the configuration or operation of any plant components, structures or systems as described in the CPS Updated Safety Analysis Report.

(3) The proposed change does not involve a significant reduction in any margin of safety, since operation of the RHR system in the steam condensing mode from either the main control room or the RS system is not assumed or required in any accident analysis as explained per IP's original commitment to not utilize the steam condensing mode of operation.

The NRC staff has reviewed the licensee's analysis and agrees with the licensee's conclusions. Therefore, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: John N. Hannon

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: August 31, 1990

Description of amendment request: The proposed amendment would revise the operability and surveillance provisions of Technical Specification 3/4.6.5 to reflect that two drywell post-LOCA vacuum relief valves are provided in series in each penetration.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) Create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) Involve a significant reduction in a margin of safety.

The licensee has reviewed the proposed request and has provided the following no significant hazards consideration determination:

(1) With the proposed changes, the Technical Specifications will still ensure that the drywell post-LOCA vacuum relief valves can perform their required safety functions. Specifically, the revised Action "a" would still ensure that the minimum number of valves/penetrations remain available to perform the opening functions of these valves/penetrations; revised Actions "b" and "c" and the proposed footnote "**" would still ensure that each drywell vacuum relief penetration is sufficiently closed to maintain the drywell bypass leakage within the limits of the plant design and the current Action Statements for DRYWELL INTEGRITY. As a result, plant operation would continue to be maintained within the bounds of the current safety analyses. Therefore, these proposed changes do not result in a significant increase in the probability or the consequences of any accident previously evaluated.

(2) The proposed change does not involve any change to the plant design. Therefore, no new failure modes are involved, and plant operation continues to be limited to the bounds of the current safety analyses. As a result, these proposed changes cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The incorporation of the proposed changes into the Technical Specifications will not adversely impact the capability of the drywell post-LOCA vacuum relief valves to perform their required safety functions. Additionally, plant operation will continue to be limited to the bounds of the current safety analyses. Therefore, these proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and agrees with the licensee's conclusions. Therefore, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: John N. Hannon

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: August 31, 1990

Description of amendment request: The proposed amendment would make several changes to the neutron monitoring functions of Technical Specifications 3/4.3.1, "Reactor Protection Instrumentation"; 3/4.3.6, "Control Rod Block Instrumentation"; and 3/4.3.7.6, "Source Range Monitors." The changes would incorporate statements of exception to Technical Specification 4.0.4, clarify startup surveillance requirements, delete APRM Neutron Flux-High RPS setpoint

verification, revise SRM control rod block applicability, revise IRM and SRM control rod block channel calibration frequency, and incorporate an editorial change.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) Create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) Involve a significant reduction in a margin of safety.

The licensee has reviewed the proposed request and has provided the following no significant hazards consideration determination:

(1) These proposed changes do not result in any change to the plant design or its operating modes. Therefore, these proposed changes cannot increase the probability of any accident previously evaluated.

The proposed addition of Surveillance Requirements 4.3.1.4 and 4.3.6.2, together with the incorporation of the proposed additional text for Surveillance Requirements 4.3.6.2, 4.3.7.6.a and 4.3.7.6.b, provide the flexibility required to perform the associated IRM and SRM surveillances during plant shutdowns following extended operation in Operational Condition 1. These surveillances cannot be performed with the unit in Operational Condition 1. The proposed changes merely provide the formal means to avoid violation of Technical Specification 4.0.4 and provide adequate time to perform these surveillances without causing unnecessary stress on plant personnel to complete these surveillances under the provisions of Action Statements (or Technical Specification 3.0.3). Adequate scram protection and neutron monitoring capability are provided by the APRMs during the short time period needed to perform these surveillances.

The proposed change to allow entry into Operational Condition 1 before the APRM gains have been adjusted to conform to the power values calculated by a heat balance provides adequate time for plant conditions to be achieved that will result in an accurate heat balance calculation. The APRM Flow-Biased Simulated Thermal Power-High function still provides adequate scram protection during the short time period needed to achieve 25% of RATED THERMAL POWER and perform these APRM gain adjustments after entering Operational Condition 1.

The proposed deletion of the requirements to perform Channel Functional Tests within 24 hours prior to startup or within 24 hours prior to moving the reactor mode switch from the Shutdown position, unless performed within the previous seven days, makes these requirements easier to implement without reducing the effectiveness of these surveillances. The Technical Specifications, when revised as proposed, will still require that these Channel Functional Tests be performed within seven days prior to entering the conditions for which these instruments are required.

The deletion of the setpoint verification of the APRM Neutron Flux-High RPS function at least once per seven days still provides adequate assurance that this trip function is properly calibrated. This RPS setpoint is maintained at a constant value and is therefore similar to the APRM Neutron Flux-High, Setdown RPS function which does not currently require setpoint verification at least once per seven days. This proposed change is also consistent with the Standard Technical Specifications and the Technical Specifications of the other BWR/6 plants.

Regarding the proposed change to modify the Applicability of the SRM control rod block functions with respect to Operational Condition 2, the Technical Specifications, as revised, will still ensure that adequate monitoring of neutron flux levels are available to the operator during control rod movements. The IRMs on range 3 or higher provide adequate neutron monitoring capability without the SRMs. The SRMs provide no other input to the RC&IS other than ensuring neutron monitoring is available during control rod movements.

The proposed change to the Channel Calibration frequency for the IRM and SRM control rod block functions should not result in any significant change in the availability of these functions with respect to ensuring that neutron monitoring capability is available to the operators during control rod movements at low power conditions.

The remaining changes are editorial only and do not affect any technical requirements of the current Technical Specifications.

Based upon the above, these proposed changes cannot increase the probability or the consequences of any accident previously evaluated.

(2) These proposed changes do not result in any change to the plant design or operation. As a result, no new failure modes are introduced. Therefore, these proposed changes cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) As discussed in (1) above, these proposed changes still provide adequate assurance that each of the applicable safety functions are capable of being effected when required, including reactor scram protection, control rod block, and neutron monitoring. Therefore, these proposed changes do not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and agrees with the licensee's conclusions. Therefore, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: John N. Hannon

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: August 9, 1990

Description of amendment request: The proposed amendment would change Section 3, Limiting Conditions for Operation, and Section 4, Surveillance Requirements, of the Technical Specifications for Millstone Nuclear Power Station, Unit No. 2. The proposed changes would be consistent with the guidance and proposed changes recommended by Generic Letter 87-09, which was issued as part of the initiative to improve Technical Specifications.

Basis for proposed no significant hazards consideration determination: The licensee has reviewed the proposed changes in accordance with 10 CFR 50.92 and has concluded and the staff agrees that they do not involve a significant hazards consideration in that the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

a. Section 3.0: The current Technical Specification 3.0.4 prohibits changing mode of operation unless all Limiting Conditions for Operation (LCOs) are met. Certain Technical Specifications, however, contain an exemption to Technical Specification 3.0.4 that allows start-up with equipment or parameters that are not in compliance with an applicable LCO. This exemption typically is provided for that equipment covered by Technical Specifications that is not necessary to adequately mitigate design basis accidents. In these cases, because equipment operability does not impact the design basis, there is no need for a restriction on plant start-up. In all of these cases except one (Technical Specification 3.4.8), the ACTION statements allow continued operation for an indefinite period. (Technical Specification 3.4.8 provides an exemption so that a posttrip iodine spike will not preclude restart.)

The proposed revision to Technical Specification 3.0.4 would specifically allow entry into an operational mode while subject to ACTION requirements, provided those requirements allow indefinite continued operation. The revised Technical Specification 3.0.4 is thus consistent with the concept and intent of the current Technical Specifications; the numerous exemptions from Technical Specification 3.0.4 would no longer be necessary or appropriate. As such, the proposed changes will not increase the probability or consequences of any accident previously analyzed.

Several other current Technical Specifications in Section 3.0 (3.4.3., 3.4.6, 3.6.1.3, and 3.7.1.2) contain limited exemptions from the current Technical Specification 3.0.4 that cannot be simply deleted as a result of the proposed revision to Technical Specification 3.0.4. NNECO has therefore proposed revisions to these that are consistent with the intent of Generic Letter 87-09 and that ensure change. Therefore, these proposed changes as well as the various editorial changes will also not impact the probability or consequences of accidents previously analyzed.

Finally, the proposed changes to Technical Specification 3.0.4 also impact other individual Technical Specifications which do not currently contain an exemption from T.S. 3.0.4 (e.g., Technical Specification 3.6.3.1, which permits indefinite continued operation with an inoperable containment isolation valve provided the penetration is isolated by a deactivated valve). In these cases, the proposed revisions to Technical Specification 3.0.4 would allow start-up because the applicable ACTION requirements allow indefinite continued operation. However, this minor change is consistent with the objective of Generic Letter 87-09 and the intent of the other proposed revisions, i.e., to allow mode changes when subject to ACTION requirements that do not impact continued operation. In these cases, the ACTION requirements provide an equivalent level of safety without requiring a shutdown. Allowing start-up in these situations will therefore have no adverse impact on the probability or consequences of any accident previously analyzed.

b. Section 4.0: The proposed change would revise Technical Specification 4.0.4 to allow a delay of up to 24 hours to implement ACTION requirements in the event a required surveillance was not performed and the allowable outage time limits of the ACTION statement are less than 24 hours. This delay would apply only in the event of a missed surveillance; it would not apply to a failed surveillance.

The proposed delay in implementing the ACTION requirements is intended to allow sufficient time to complete the required surveillance. The proposal recognizes that a missed surveillance is much less significant than a failed surveillance. Further, given that the vast majority of surveillances performed meet relevant acceptance criteria, in most cases the missed surveillance — will demonstrate the equipment to be operable. The proposed change recognizes that it is overly conservative to assume that equipment is inoperable simply because a surveillance was missed.

This proposed change to Technical Specification 4.0.4 does not impact the integrity of any component or of the reactor coolant pressure boundary. The proposed change does not impact, in a substantive way, the operability or surveillance requirements for any component, nor does it change the way surveillance/testing is performed. NNECO therefore concludes that the change will not increase the probability or consequences of any accident previously analyzed.

The proposed change to Technical Specification 4.0.4 is essentially a clarification of existing Technical Specifications. As such, this change will also have no effect on the probability or consequences of accidents previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

None of the proposed changes to either Section 3.0 or Section 4.0 of the Technical Specifications or the proposed editorial changes will have any impact on plant response. The amendments requested also involve no changes to plant equipment or to either normal or emergency operating procedures. Thus, no new failure modes will be introduced.

In addition, all of the equipment affected by the change to Technical Specification 3.0.4 is either not required for mitigation of a design basis accident or the applicable Technical Specification ACTION statement provides an equivalent level of safety. Thus, plant response will be unaffected.

In summary, NNECO concludes that the proposed changes will not create the possibility of any new or different kind of accident from those previously analyzed.

3. Involve a significant reduction in the margin of safety.

As discussed above, none of the proposed changes to either Section 3.0 or Section 4.0 of the Technical Specifications or the editorial changes will impact plant equipment, plant response, or any parameter related to the integrity of the reactor coolant pressure boundary. Further, the proposed changes will not affect either normal or emergency operating procedures. Therefore, the proposed changes will not impact any safety limit or reduce any margin of safety.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: July 10, 1990, as supplemented August 24, 1990

Description of amendment request: The proposed change to the Indian Point 3 (IP3) Technical Specifications would increase the allowed outage time (AOT) for the Emergency Diesel Generators (EDGs). Technical Specification Section 3.7.B.1. (page 3.7-2) would be changed to allow an EDG outage time of seven days, instead of the currently allowed 72 hours. A seven day AOT was in effect when IP3 was originally licensed.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92.

The licensee has evaluated the proposed amendment against the standards provided above and has supplied the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Operation of Indian Point 3 in accordance with the proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Implementation of the proposed change is expected to result in an increase in the probability of core damage, from 1.54×10^{-4}/year to 1.56×10^{-4}/year. This increase is considered to be insignificant relative to the underlying uncertainties involved. This proposed change would return the EDG AOT technical specification to 7 days. Seven days is the original technical specification and licensing basis value of the EDG AOT.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Operation of Indian Point 3 in accordance with the proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

No change is being made in the manner in which the EDG's provide plant protection. No new modes of plant operation are involved. Extending the EDG AOT does not necessitate physical alteration of the plant or changes in plant operational limits. This proposed change would return the EDG AOT technical specification to 7 days. Seven days is the original technical specification and licensing basis value of the EDG AOT.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Operation of Indian Point 3 in accordance with the proposed license amendment does not involve a significant reduction in a margin of safety.

As detailed in the study contained in Appendix A, extending the EDG allowed outage time involves an incremental reduction in the margin of safety. The magnitude of this reduction is insignificant compared to the uncertainties involved.

The capability to power vital and auxiliary system components remains available via the other two EDGs. This proposed change would return the EDG AOT technical specification to 7 days. Seven days is the original technical specification and licensing basis value of the EDG AOT.

The staff has reviewed and agrees with the licensee's analysis of the significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed change

does not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: August 31, 1990

Description of amendment request: This amendment to the Indian Point 3 Technical Specifications would amend Section 3.1.B (Heatup and Cooldown), Section 4.3 (Reactor Coolant System Integrity Testing), and Section 3.1.C (Minimum Conditions for Criticality). Sections 3.1.B and 4.3 are being amended to incorporate revised pressure-temperature limits. These revisions are being made in accordance with Generic Letter 88-11 which requested that licensees use the methodology of Regulatory Guide (RG) 1.99, Revision 2, "Radiation Embrittlement of Reactor Vessel Materials," to predict the effect of neutron radiation on reactor vessel materials. Section 3.1.C is being amended to delete Section 3.1.C.2 which establishes pressure-temperature requirements on the reactor coolant system when the reactor is critical.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92.

The licensee has evaluated the proposed amendment against the standards provided above and has supplied the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Neither the probability nor the consequences of a previously analyzed accident is increased due to the proposed changes. The adjusted reference temperature of the limiting beltline material was used to correct the pressure-temperature curves to account for irradiation effects. Thus, the operating limits are adjusted to incorporate the initial fracture toughness conservatism present when the reactor vessel was new. The adjusted reference temperature calculations were performed utilizing the guidance contained in RG 1.99, Revision 2. The updated curves provide assurance that brittle fracture of the reactor vessel is prevented.

Removal of the pressure-temperature limits for criticality does not increase the consequences or probability of any accident because these limits are conservatively encompassed and are bounded by the requirements of specification 3.1.C.3.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The updated P-T limits will not create the possibility of a new or different kind of accident. The revised operating limits merely update the existing limits by taking into account the effects of radiation embrittlement, utilizing criteria defined in RG 1.99, Revision 2. The updated P-T curves are conservatively adjusted to account for the effect of irradiation on the limiting reactor vessel material.

No change is being made to the way the pressure-temperature limits provide plant protection. No new modes of operation are involved. Incorporating this amendment does not necessitate physical alteration of the plant.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

The proposed amendment does not involve a significant reduction in the margin of safety. The pressure-temperature operating limits are designed to provide a margin of safety. The required margin is specified in ASME Boiler and Pressure Vessel Code, Section III, Appendix G and 10 CFR [Part] 50, Appendix G. The revised curves are based on the latest NRC guidelines along with actual neutron flux/fluence data for the reactor vessel. The new limits retain a margin of safety equivalent to the original margin when the vessel was new and the fracture toughness was slightly greater. The new operating limits account for irradiation embrittlement effects, thereby maintaining a conservative margin to safety.

The removal of the pressure-temperature for criticality does not reduce the plant safety margin because these limits are conservatively encompassed and bounded by the requirement of specification of 3.1.C.3.

The staff has reviewed and agrees with the licensee's analysis of the significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: September 19, 1990

Description of amendment request: The proposed amendment would revise Table 3.6-1 and Table 4.4-1 (Page 5 of 7) of the Technical Specifications to reflect the removal of Containment Isolation Valves UH-37 and UH-38. Containment Isolation Valves UH-37 and UH-38 are on the Auxiliary Steam Supply and Condensate Return (ASC) System steam supply and condensate return lines, respectively. These lines originally were designed to supply steam to the Containment Unit Heaters. Since the temperature in containment is maintained without the use of the Unit Heaters, auxiliary steam is no longer required to be supplied to containment. Valves UH-37 and UH-38 are therefore being removed.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92.

The licensee has evaluated the proposed amendment against the standards provided above and has supplied the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes reflect a plant modification that will enhance the integrity of the containment penetrations associated with the ASC steam supply and condensate return lines. The modification will cap the two lengths of piping penetrating containment. The capped piping will be leak tight, therefore the technical specification changes associated with this modification do not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes reflect a plant modification that will provide containment isolation at the containment penetrations associated with the ASC steam supply and condensate return lines. Since this is the same function currently provided by containment isolation valves UH-37 and UH-38, the removal of these valves and associated technical specification changes to not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

The proposed amendment does not involve a significant reduction in a margin of safety since it reflects a plant modification that will enhance containment integrity by providing leak tight seals at the penetrations associated with the ASC steam supply and condensate return lines.

The staff has reviewed and agrees with the licensee's analysis of the

significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: September 4, 1990

Description of amendment request: The amendment would eliminate the average Power Range Monitor (APRM) downscale Reactor Protection System (RPS) scram Technical Specification (TS) requirements (Item 2e in TS Tables 2.2.1-1, 3.3.1-1, 3.3.1-2 and 4.3.1.1-1). The APRM downscale scram was designed to reactivate the Intermediate Range Monitor (IRM) upscale scram functions when the associated APRM channel is downscale and the Reactor Mode switch is in the Run position. Normally, proper Reactor Mode switch positioning is administratively ensured by compliance with the integrated operating procedures for plant startup and shutdown. The surveillance tests for the APRM downscale trip function, required by the TS, require the plant to be placed in a "half scram" condition, thus increasing the probability of a spurious trip or ESF actuation. Since the downscale trip is not judged to be performing a function with a value commensurate with its associated risk or burden, the licensee proposes elimination of its TS requirements.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: 1) involve a significant increase in the probability or consequences of an accident previously evaluated; 2) create the possibility of a new or different kind of accident from any accident previously evaluated; or 3) involve a significant reduction in a margin of safety.

The licensee has provided an analysis of no significant hazards considerations with the request for the license amendment. The licensee's analysis of the proposed amendment against the three standards in 10 CFR 50.92 is reproduced below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The accidents of concern with respect to the APRM/IRM companion scram, caused by an APRM downscale concurrent with either an IRM "high high" or inoperable trip, are the rod drop accident (RDA) and the low power rod withdrawal error (RWE). The FSAR and reload safety analyses do not credit this scram function in the termination of either of these accidents. Since this scram function is not credited in the termination of these accidents, the elimination of this scram function has no adverse effect on previously evaluated accidents.

2. Create the possibility of a new or different accident from any accident previously evaluated.

The limiting accidents in the operating region of transition between the startup and run modes are well understood and are evaluated in the FSAR and/or reload safety analyses. Elimination of the APRM downscale/IRM "high high" or inoperable caused scram does not introduce any new accident scenario since it is not credited in the termination of these events (i.e., RDA and RWE). Less limiting events in this region such as control rod initiated fast period events either due to operator error or CRD malfunction are subsets of the lower power RWE event and are bounded by both it and the design basis RDA. In addition, General Electric has indicated that for reactivity insertion events occurring with an inappropriate mode switch position, the only effect of the deletion of the APRM downscale scram would be that the initial power level could be a few percent lower. The generic General Electric analyses have been performed at a spectrum of power levels that would bound any possible event at Hope Creek with this proposed change.

3. Involve a significant reduction in a margin of safety.

The APRM downscale/IRM "high high" or inoperable caused scram is not credited in the termination of any transient which would challenge a safety limit. As such, the elimination of this scram function has no effect on any Technical Specification defined safety limit.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination as to whether the proposed amendment involves a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner and Wetterhahn, 1747 Pennsylvania Avenue, N.W., Washington, DC 20006

NRC Project Director: Walter R. Butler

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: July 10, 1990 and Supplement dated August 28, 1990

Description of amendment request: The Operating Licenses for Salem 1 and Salem 2, DPR-10 and DPR-75, respectively, would be amended to add a new Section 2.J to DPR-70 and Section 2.N to DPR-75, to read:

"The terms of the May 6, 1983 Order have been satisfied by the incorporation of the long term corrective action requirements into the Salem Updated Final Safety Analysis Report (Appendix 7.A)."

Basis for proposed no significant hazards consideration determination: On May 6, 1983, the Nuclear Regulatory Commission issued an Order modifying the operating licenses for the Salem Generating Station, Unit Nos. 1 and 2. The Order referenced a series of letters in which Public Service Electric and Gas Co. (PSE&G) had submitted its corrective action program in response to the reactor breaker failures. This corrective action program included short term, interim and long term actions.

Subsequently, the Order was modified by letter dated January 31, 1984, to change the implementation schedule for several long term actions, and again on March 18, 1986, to remove the requirement to submit Nuclear Oversight Committee Reports on a quarterly basis. The March 18, 1986 letter also stated that the terms of the Order have been satisfactorily completed.

PSE&G has performed a detailed review of the correspondence addressing the corrective action program and identified a total of forty-three (43) long term program commitments which will be consolidated into a new updated Final Safety Analysis Report (UFSAR) appendix. The contents of this appendix will be controlled in accordance with the provisions of 10 CFR 50.59.

The consolidation of the long term program commitments into the UFSAR assures that changes to these programs will be properly controlled. Any changes involving an unreviewed safety question or a change in the technical specifications would be submitted to the Commission for prior approval.

The forty-three (43) program element descriptions will be grouped in the UFSAR under the following headings:

- Training
- Procurement & Management
- Operating Procedures
- Maintenance & Surveillance
- Control of Vendor Information

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The license has analyzed the proposed amendment to determine if a significant hazards consideration exists:

1. The proposed change does not increase the probability or the consequences of an accident previously evaluated because all breaker-related technical specification requirements remain in effect and additional controls, beyond 10 CFR 50.59 and 50.71(e), apply as follows:

a. Training: 10 CFR 55; Regulatory Guides 1.8, 1.58 and 1.146; Generic Letters 81-01 and 84-14; INPO 85-002, 86-018, 86-025, 86-026, 88-006 and 88-007.

b. Procurement & Management: 10 CFR 50.54(a)(3); Regulatory Guides 1.33 and 1.44.

c. Operating Procedures: Regulatory Guide 1.33; Generic Letters 83-32 and 85-09; INPO 84-024.

d. Maintenance & Surveillance: Regulatory Guide 1.33; Generic Letters 83-27, 83-28 and 89-14; INPO 85-026, 85-038 and 87-028.

e. Control of Vendor Information: Regulatory Guide 1.33; Generic Letters 82-04, 83-28 and 90-04; INPO 84-010, 87-009 and 89-015.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated because the change does not entail any alteration to the plant design, installed equipment or the operating procedures.

3. The proposed change does not involve a significant reduction in a margin of safety because the change neither impacts compliance with 10 CFR 50.62 nor affects the safety limits, limiting safety system settings, surveillance requirements, limiting control settings, limiting conditions for operations, design features, or administrative controls as described in the Salem Technical Specifications.

The staff has reviewed the licensee's submittals and significant hazards analysis and concurs with the licensee's determination that the proposed amendment does not involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

Attorney for licensee: Mark J. Wetterhahn, Esquire, Bishop, Cook, Purcell and Reynolds, 1400 L Street, N.W., Washington, DC 20005-3502

NRC Project Director: Walter R. Butler

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: June 1, 1990

Description of amendment request: The proposed amendment would change the Ginna Technical Specifications, similar to the Standard Technical Specifications for Westinghouse Pressurized Water Reactors (NUREG-0452, Revision 4), in specifying time limits when required to shutdown the plant due to the quadrant to average power tilt ratio exceeding 1.12.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application. In regard to the three standards, the licensee provided the following analysis.

(1) Operation of the facility in accordance with the proposed amendment to provide generically accepted guidance would not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) The guidance merely specifies the time by which the required power reductions must be accomplished. Use of the modified specification would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Since the power reductions (50% and hot shutdown) are still required, use of the modified specification would not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based upon this review, the staff agrees with the licensee's analysis.

Based upon the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610

Attorney for licensee: Nicholas S. Reynolds, Bishop, Cook, Purcell & Reynolds, 1400 L Street N.W., Washington, DC 20005-3502

NRC Project Director: Victor Nerses (Acting)

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: May 16, 1990 and August 13, 1990

Description of amendment request: The amendment proposes to modify Technical Specification (TS) 3/4.4.2, Safety Valves, for both the shutdown and operating conditions. Specifically, TS 3/4.4.2.1 covering shutdown would be modified to change the setpoint tolerance from plus or minus 1% to plus or minus 3%. In addition, the surveillance requirement for this TS was proposed to be modified to indicate that either the surveillance requirements of Specification 4.0.5 shall be met or the pressurizer safety valve shall have its lift set pressure verified under cold conditions. The tolerance was also changed to plus or minus 3% for TS 3/4.4.2.2. A footnote was added to indicate that Mode 3 applicability did not apply when there had been at least five days of operation in Modes 5 or 6 since the reactor was last critical and all rod cluster control assemblies (RCCA) are fully inserted with all control rod drive mechanisms (CRDM) deenergized. The bases for this TS, 3/4.4.2, were also proposed to be modified to indicate that the pressurizer safety valves are designed to relieve a given amount of saturated steam at the valve setpoint plus 3% accumulation. In addition, the proposed change to this bases section deleted the indication that the safety valves will demonstrate their lift settings only during shutdown and that such a demonstration would be performed in accordance with the 1974 Edition of Section XI of the ASME Boiler and Pressure Vessel Code. In the proposed change, no edition of the code was specified.

Basis for proposed no significant hazards consideration determination:

The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

South Carolina Electric & Gas Company (the licensee) has reviewed the proposed changes and has determined that the requested amendment does not involve a significant hazards consideration for the following reasons:

1. The proposed change does not represent a significant increase in the probability or consequences of an accident previously evaluated.

The PSVs [pressurizer safety valves] provide protection from overpressurization of the primary system, and are actuated after an accident is initiated. However, the accidental depressurization of the RCS [reactor coolant system] can be initiated by the opening of a PSV. Increasing the tolerance on these valves does not create a new failure mode or result in a lift setpoint that would increase the probability of an inadvertent opening of these valves. Also, as discussed in the evaluation [safety], DNBR [departure from nucleate boiling ratio] and PCT [primary coolant temperature] values affected by the non-LOCA [non-loss-of-coolant accident] and LOCA accident [SIC] events remain within the limits specified in the licensing basis documentation. The evaluation also demonstrates that the mass/energy releases inside and outside the containment previously documented in the FSAR remain valid. In addition, the SGTR [steam generator tube rupture] analyses show that the change in the pressurizer safety valve setpoint tolerance has no impact on the analysis. Therefore, the probability or consequences of an accident previously evaluated in the FSAR would not be increased due to changing the PSV lift setpoints by 3% with respect to the current Technical Specification value.

[With respect to the allowance of PSV testing in Mode 3], the installed [Crosby Gage and Valve] SPVD setpoint verification device does not restrict the vertical movement of the spindle before, during or after testing. The internal mechanism of the SPVD triggers a solenoid and releases the spindle allowing the valve to reseat. It is highly unlikely that the valve with the SPVD installed will fail in an open position, thus initiating a transient. Since the plant is in Mode 3, the plant is in a no load condition. Assuming that all rods are inserted and deenergized while the valves are being tested, no reactivity may be added to the primary through rod motion. Because of this, the PSVs are not required to mitigate any transient in Mode 3. In addition, all other safety systems used to mitigate any accidents postulated in Mode 3 are not affected. It has been demonstrated that the DNB and the PCT limits as defined in the FSAR remain applicable for non-LOCA postulated events. For the SGTR analysis, the core decay heat would be significantly less in Mode 3 and, therefore, the consequences are bounded by the results provided in the FSAR. Therefore, the probability or consequences of an accident previously evaluated in the FSAR will not be increased due the verification of the PSV setpoint values in Mode 3.

2. The proposed change does not create a new or different kind of accident from any previously evaluated.

As previously stated, the PSVs provide overpressurization protection for the primary system. The analyses results as presented in the FSAR remain valid and no new failure mechanisms were determined. Thus, the possibility of an accident which is different than any already evaluated in the FSAR would not be created due to changing the PSV lift setpoints by 3% with respect to the current Technical Specification value.

All safety systems required in Mode 3 function, and no new failure modes are identified for any system or component, nor has any new limiting single failure been identified. Therefore, testing the PSVs in Mode 3 does not create the possibility of an accident which is different than any already evaluated in the FSAR.

3. The proposed change does not represent a significant reduction in the margin of safety

As indicated in the evaluation, the conclusions provided in the FSAR remain valid. All acceptance criteria continue to be met. Therefore, there is no reduction in the margin of safety defined in the bases to the Technical Specifications.

The verification of the PSV setpoint values in Mode 3 does not restrict the values from performing their intended function. All acceptance criteria continue to be met. Thus, there is no reduction in the margin of safety as defined in the bases to the Technical Specifications.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric & Gas Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: July 18, 1990

Description of amendment request: The proposed Technical Specification (TS) changes concern the deletion of Figure 3.1-3, "Required Shutdown Margin (Modes 3, 4 and 5)," from the TS and add a reference to it in 3.1.1.2, Shutdown Margin Modes 3, 4, and 5. In TS 3.1.1.2, reference is now made to the Administration Controls Section 6.9.1.11, Core Operating Limits Report (COLR) and Figure 3.1-3 is now located to the COLR. Additionally, the proposed change revises Bases Sections 3/4.1.2, Boration Systems, to delete the reference to Figure 3.1-3 and replaces it with a reference to the COLR. A change is also proposed to the Bases Section 3/4.2.1, Axial Flux Difference, so it refers to the COLR rather than the Peaking Factor Limits Report (PFLR). Amendment No. 88 to the Summer Facility Operating License replaced the PFLR with the COLR. Finally, Administrative Control Section 6.9.1.11 is proposed to be modified to add the shutdown margin limits of TS 3.1.1.2 to the scope of the COLR and WCAP-9272-P-A is identified as the document describing the methodology used in developing the shutdown margin limits for modes 3, 4 and 5.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

South Carolina Electric & Gas Company (the licensee) has reviewed the proposed changes and has determined that the requested amendment does not involve a significant hazards consideration for the following reasons:

1. The proposed change does not involve a significant increase in the probability or

consequences of an accident previously evaluated.

The removal of the Required SDM curve [Shutdown Margin Curve (SDM), Figure 3.1-3] from the Virgil C. Summer Nuclear Station Technical Specifications has no influence or impact on the probability or consequences of any accident previously evaluated. The limits in the curve, although not in Technical Specifications, will be followed in the operation of the Virgil C. Summer Nuclear Station. The proposed amendment still requires exactly the same actions to be taken when or if limits are exceeded as is required by current Technical Specifications. Each accident analysis addressed in the Virgil C. Summer Nuclear Station Final Safety Analysis Report (FSAR) will be examined with respect to changes in the required SDM, which are obtained from application of the NRC-approved reload design methodologies, to ensure that the transient evaluation of new reloads are bounded by previously accepted analyses. This examination, which will be performed per the requirements of 10CFR50.59, ensures that future reloads will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revision to change "PFLR" to "COLR" in Technical Specification Basis 3/4.2.1 is administrative in nature and does not, therefore, involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

As stated earlier, the removal of the required SDM curve has no influence or impact, nor does it contribute in any way to the probability or consequences of an accident. No safety-related equipment, safety function, or plant operations will be altered as a result of this proposed change. The curve's data will continue to be calculated using the NRC-approved methods. The Technical Specifications will continue to required operation within the required limits, and appropriate actions will be taken when or if limits are exceeded.

The proposed revision the change "PFLR" to "COLR" in Technical Specification Basis 3/4.2.1 is administrative in nature. The change simply deletes a reference to an obsolete report (PFLR) and references the report which replaced it (COLR).

For these reasons, the proposed amendment does not in any way create the possibility of an accident which is new or different from any accident previously evaluated.

3. The proposed amendment does not result in a significant reduction in the margin of safety.

The margin of safety is not affected by the removal of the required SDM curve from the Technical Specifications. The margin of safety presently provided by current Technical Specifications remains unchanged. The proposed amendment continues to require operation within the limits obtained from the NRC-approved reload design methodologies and appropriate actions to be taken when or if limits are violated remain unchanged.

The development of the required SDM curves for future reloads will continue to conform to those methods described in NRC-approved documentation. In addition, each future reload will involve a 10CFR50.59 safety review to assure that operation of the unit within the curve will not involve a significant reduction in a margin of safety.

The proposed revision to change "PFLR" to "COLR" in Technical Specification Basis 3/4.2.1 is administrative in nature. The change simply deletes a reference to an obsolete report (PFLR) and references the report which replaced it (COLR). The change does not affect the margin of safety currently provided by the Technical Specifications.

Therefore, the proposed change does not impact the operation of the Virgil C. Summer Nuclear Station in a manner that involves a reductions in the margin of safety.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric & Gas Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: August 22, 1990

Description of amendment request: Proposed Change No. 232, which was submitted by Amendment Application No. 187, proposes to revise Technical Specification Section 6.4, "Training," to reference the correct edition of the National Fire Protection Association (NFPA) standard concerning the fire brigade training program. The existing Technical Specifications make reference to the 1976 edition of the NFPA standard, but that standard has no 1976 edition.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided the following no significant hazards consideration determination:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The operation of San Onofre Unit 1, in accordance with this proposed change, will not involve a significant increase in the probability or consequences of an accident previously evaluated. This proposed change involves only a clarification of a reference to an incorrect edition of NFPA Standard No. 27. This change will result in the Technical Specification referencing the edition of the NFPA standard on which the fire brigade training is based, rather than the yearly issue date of the NFPA Code. Therefore, this change will improve the quality of Technical Specification Section No. 6.4.2. The change is administrative in nature and will not affect accident probabilities or consequences.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

The proposed revision is administrative in nature and does not affect previously analyzed accidents or create any new accidents. Therefore, it is concluded that operation of the facility in accordance with this proposed change does not create the possibility of a new or different kind of accident.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

The proposed revision is an administrative change only. It does not impact any margin of safety. Therefore, it is concluded that operation of the facility in accordance with this proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the analysis and, based on that review, it appears that the three criteria are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Attorney for licensee: James Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

NRC Project Director: James E. Dyer, Acting

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: August 31, 1990.

Description of amendment request: Proposed Change No. 151, submitted by Amendment Application No. 188, proposes to revise Technical

Specification (TS) Section 3.3, "Safety Injection and Containment Spray Systems," Section 3.5.5, "Containment Isolation Instrumentation," and Section 4.2, "Safety Injection and Containment Spray System." The licensee has proposed this change to improve the existing Technical Specifications by making the specifications more complete, using the Westinghouse Standard Technical Specifications (STS) for the format and basis to the degree practical. More specifically, the following changes are being proposed:

1. Existing Specification 3.3, "Safety Injection and Containment Spray Systems," is replaced by new Specification 3.3, "Emergency Core Cooling Systems (ECCS)."

2. 72-hour action statements are provided for emergency core cooling system (ECCS) components as allowed by STS requirements.

3. The existing requirement of TS 3.3.1.C to perform surveillance testing of redundant components or trains prior to entry into the associated action statement is deleted to conform with current STS requirements.

4. Specification 3.3.1 is revised to specify ECCS operability requirements and associated action statements for reactor coolant system (RCS) pressure greater than or equal to 600 psig. The Basis Section is revised accordingly.

5. Specification 3.3.2 and accompanying Basis is added to specify ECCS operability requirements and associated action statements for RCS pressure less than 600 psig.

6. Existing Specification 3.3.2, "Shutdown Status," is retitled Specification 3.3.3, "Isolation of Feedwater/Safety Injection From Reactor Coolant System." Operability requirements are clarified to allow isolation of the safety injection/feedwater pumps from the RCS at 600 psig; a new action statement is included which will require a once per shift verification of the remaining positive barrier should one of the two barriers not be operable; the requirement to place the feedwater pump breaker in the racked out position is changed to provide for operation of the breaker in the test position; and certain cross-references are corrected. A note is added to clarify boron concentration requirements for the safety injection piping. The note states that the boron concentration in the safety injection piping from the refueling water storage tank to cold leg injection valves MOV-850A, B and C does not have to be maintained when the safety injection piping is isolated from the RCS for shutdown conditions. The Basis Section is revised accordingly.

7. Existing Specification 3.3.3, "Minimum Boron Concentration in the Refueling Water Storage Tank (RWST) and Safety Injection (SI) Lines and Minimum RWST Water Volume," is renumbered as Specification 3.3.4 with the same title. Minor changes to cross-references have been made, and a clarification regarding boron concentration in SI lines during shutdown conditions is added as discussed in the previous section.

8. Existing Specification 3.3.4, "Minimum Solution Volume Hydrazine Concentration in the Hydrazine Tank," has been combined with the containment spray system requirements of existing Specification 3.3.1.A.2 to form Specification 3.3.5, "Containment Spray System." Containment spray flow limiting valves CV-517 and CV-518 are required to be maintained in the open position for the injection phase and must be operable so they can be closed during the recirculation phase; the provisions of existing Specification 3.3.1.D which would require placing CV-517 and CV-518 in the closed position is removed; RWST supply valve MOV-883 is included in the specification to assure it is operable for containment spray; and the specification requires both refueling water pumps to be operable in Modes 1 through 4.

9. Existing Specification 3.3.5, "Primary Coolant System Pressure Isolation Valves," was renumbered Specification 3.3.6. Minor revisions are made to move the MODE requirement into the APPLICABILITY section and to refer to the specification in the action statement; a Basis section is added; and Table 3.3.6-1 is revised to use the new tag numbers for the existing check valves.

10. New Specification 3.3.7, "Component Cooling Water System," is added to provide operability requirements for the component cooling water system.

11. New Specification 3.3.8, "Status of ECCS Components," is added to provide operability requirements for ECCS valves.

12. Specification 3.5.5, "Containment Isolation Instrumentation," is changed to specify a 72-hour action statement instead of a 6-hour action statement for the sequencer subchannels to conform with the 72 hour time limit currently allowed for the sequencer.

13. Specification 4.2.1, "Safety Injection and Containment Spray System Periodic Testing," is changed to include additional requirements consistent with STS requirements and to correct minor typographical errors.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided the following no significant hazards consideration determination:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No

The Emergency Core Cooling System (ECCS) is designed to protect the core and to mitigate the radiological consequences in the worst design basis LOCA and MSLB. The ECCS also functions for less-severe accident conditions. The proposed change will increase the operability requirements for the ECCS, and therefore will not increase the potential consequences or probability of an accident.

The proposed change revises Technical Specification Section 3.3 by organizing the section by ECCS sub-systems and defining train alignment and MODE operability requirements within each subsection. New action statements and section titles are in accordance with the STS. The revised specifications are based on train-alignment, as applicable, with the SONGS 1 electrical distribution system.

The operability requirements are being revised as follows:

The SONGS 1 design has redundant pump trains connected to common flow paths, such as two pumps connected to three common flow paths. The proposed change provides separate operability requirements for the pumps and flow paths. The use of separate operability requirements will reduce the potential for misalignment of components and therefore not increase the potential of causing an accident, or increase the consequences of an accident.

ECCS components required to be operable in MODES 1, 2, and 3 above 600 psig are separated from those required for MODE 3 below 600 psig and MODE 4. This will effectively increase the time safety injection is required to be available over the requirements of the existing specifications, and does not increase the consequences of accidents requiring ECCS operation.

STS 72-hour action statements for redundant pump trains and flow paths, including the primary injection and recirculation flow paths, are provided. The proposed change also moves the requirements for the Containment Spray and Component Cooling Water Systems from Section 3.3.1 to separate sections, and revises Table 3.3.5-1 with new valve numbers.

The amendment provides for increased availability of cold leg safety injection by requiring one pump train, consisting of one charging pump and associated flow paths, in MODE 3 (below 600 psig) and MODE 4. It also requires the hot leg and cold leg recirculation paths to be operable through MODE 4. The hot leg recirculation requirements incorporate the alternate hot leg path into the specifications. Operability of these paths is not currently required by the Technical Specifications. Specific requirements have been added for the residual removal heat exchanger valves to assure they will be operable, since they are currently not environmentally qualified for submergence. The proposed specification also includes requirements for the recirculation pump discharge valves, which are being modified during the current Cycle 11 refueling outage. The new specifications for these systems do not increase the potential consequences of an accident, or probability of an accident. The proposed change provides additional ECCS system availability as compared to that required under the existing specifications, and assures the components are operated in accordance with the design basis.

The incorporation of Specification 3.3.8, "Status of ECCS Components," will enhance safety by providing requirements for ECCS train operability and specific component requirements. This will therefore, not increase the potential adverse consequences of, or probability of an accident. The proposed change will clarify to the operating personnel the requirements of the Technical Specifications for the ECCS and provide the means to effectively determine the required status of the ECCS components to assure the systems are operable.

The potential for a mass addition transient is decreased by permitting isolation of the feedwater pumps from the safety injection system at an RCS pressure of 600 psig, allowing sufficient time to isolate the system prior to reaching the 500 psig limit of Specification 3.3.3. Overpressurization above 600 psig is not a concern, since it would be limited by the shut-off head of the feedwater pumps to about 1175 psig. Permitting the feedwater pump breakers to be in the test position still assures the pumps cannot operate, and does not adversely affect any safety related equipment. Therefore these changes will not increase the potential consequences or, increase the probability of an accident.

The discrepancy in existing Specification 3.3.1.D which required isolation of the containment spray system, with a recirculation pump out of service, has have removed. Additionally, specific requirements have been incorporated to assure the containment spray flow liming valves are maintained in the correct positions. These two changes have a significant impact in improving safety by assuring the containment spray system is operable. Therefore these changes do not increase the potential consequences of an accident, or probability of an accident.

Current administrative controls require entry into Specification 3.0.3 whenever containment spray flow limiting valves CV-517 and CV-518 are found to be inoperable or whenever one component on the hot leg or cold leg recirculation path is found to be inoperable. In this event, the shutdown process must commence within one hour. The addition of the 72 hour action statements of the STS will reduce the need to enter Specification 3.0.3.

The incorporation of the 72 hour action statement is within the guidelines of the STS and does not contribute substantially to unavailability of the ECCS. The proposed change removes the need to enter Specification 3.0.3 by providing action statements for systems with redundant trains to allow continued plant operation for up to 72 hours. This is consistent with the assumption of single failure relaxation in the corresponding action statements of the STS, and is consistent with assumptions of the accident analyses in Chapter 15 of the UFSAR.

Use of the 72 hour action statement will significantly reduce the number of potential plant transients required under the one hour action statement of Specification 3.0.3. The reduction in plant transients will not increase the potential for an accident, or adverse consequences. The incorporation of the 72 hour action statement will benefit overall safety.

The STS one hour action statements for low mode operations have also been incorporated in the proposed change. In the lower modes, MODE 3 at an RCS pressure less than 600 psig, the consequences of an accident are less severe. The action statement allows 20 hours to reach MODE 5. This time limit is accepted due to the reduced affects of an accident from these conditions, and the stable reactivity condition of the core and reduced decay heat removal requirements in the lower modes of operation.

New surveillance requirements have been incorporated from the STS to perform a containment inspection, and review ECCS valve status. These requirements are an improvement over the existing specification. The containment inspection will assure the suction path of the recirculation pumps is clear of debris. The ECCS surveillance will help assure the ECCS is maintained operable. Surveillance of valves located inside the containment has not been included, since access to these areas is restricted, and also to limit exposure of operations personnel. The new surveillances will not increase the potential consequences of any accident and do not increase the probability of an accident.

Incorporation of separate sections into the proposed specification for the component cooling system and containment spray systems is consistent with the STS. The provisions of the existing specifications have been maintained in the new sections and augmented with more detailed requirements. The component cooling water system specification includes the 480v modification being installed in the Cycle 11 refueling outage and the alignment of component cooling water pump G-15C with Train B. The new action statement to allow the removal from operation of one component cooling water heat exchanger for an extended period is based on the preliminary results of a Probabilistic Risk Assessment (PRA). The preliminary PRA examined the loss of component cooling water scenarios and concluded that the risk of core damage was not significantly increased by the new specification. We are in the process of performing a detailed PRA to support these preliminary conclusions. Based on the preliminary results these specifications will not increase the potential consequences of an event, or the probability of an accident.

The increase in the action statement time limit for the containment isolation from the safety injection sequencer subchannel does not disable the containment isolation function. The change removes a discrepancy within the existing specifications. Since the containment isolation signal will still be operable directly from the containment transmitters, and the other sequencer channel will be operable, the change only reduces a portion of diversity of the trip within a single train. The operation of the containment isolation function is not significantly impacted by this change, and therefore it does not increase the probability of an accident or the potential consequences of an accident.

The proposed change does not degrade any physical barriers which could alter the consequences analyzed in the UFSAR, and therefore the proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

The proposed change will revise Section 3.3, the ECCS Specifications, consistent with the Westinghouse Standard Technical Specifications (STS). The proposed change will incorporate current STS guidance into the Technical Specifications by providing a 72-hour action statement associated with an inoperable safety injection train and removing the action statement requirement to test redundant trains which has caused unnecessary entry into Specification 3.0.3. The potential for new accidents has not been increased, and number of plant transients which would have any potential to cause an accidents [sic] is not increased by this change.

The operability requirements for the safety injection system will require one train of cold leg injection, via the charging system, to be operable in MODE 4, consistent with the STS, and extend the existing requirements for ECCS operation in MODES 1 through 3. This change does not increase the potential for any new or different accident, since it assures the operability of existing systems.

Specification 3.3.3 requires isolation of the safety injection/feedwater pumps at an RCS pressure of 500 psig. The proposed change will allow the isolation to be initiated at 600 psig and completed before reaching 500 psig. The addition of a 100 psi margin for isolation of the safety injection and feedwater pumps will reduce the potential for a mass addition transient in low temperature conditions which may exceed the capability of the Overpressure Mitigation System and, consequently, the Appendix G limits for the reactor vessel. This change does not increase the potential for a new accident, since it will assure the isolation is completed prior to reaching the restrictive limits of the heatup/cooldown curve.

Consistent with the corrective actions provided in LER 89-024, "Unit 1 CV-517 and CV-518 Failure Mode on Loss of Instrument Air," the proposed change will require valves CV-517 and CV-518 to remain open for containment spray by requiring the valves to be operable and capable of being closed during the recirculation phase. Action statements have been provided to assure the valves are maintained in accordance with the specification. A clarification of the train alignment of components of the Recirculation System and system operability is provided in the Basis for Section 3.3.1. This change assures the containment spray system is operable as required and does not create potential for an new type of accident.

The extension of the action statement time limit for one component cooling heat exchanger has been reviewed to determine if there is a significant increase in the risk of core damage during this time. Preliminary results of the PRA indicate the effect on the risk due to a potential loss of component cooling has been found to be small, and does not significantly increase the potential for an accident initiated by either loss of the component cooling water system, or a LOCA.

The proposed change increases the operability requirements for the ECCS, and gives detailed guidance on the operation of required components. These changes improve the operation and assure the availability of

the ECCS. The increase in ECCS operability does not alter core parameters, or degrade fission product barriers in any manner which would result in a new, or unanalyzed condition.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No

The safety analysis for design basis accidents has concluded that the ECCS will provide sufficient core cooling (for LOCA), and boron injection (for MSLB), to remain within acceptable limits with an assumed worst case single active failure. The proposed change will maintain the ECCS components and power supplies in an alignment consistent with the current analysis assumptions and provide for operational flexibility within the analysis. The overall impact will not be a reduction in the margin of safety and is an improvement [sic] the existing specifications.

As an example, the proposed change will require containment spray flow limiting valves CV-517 and CV-518 to remain open for proper containment spray system flow to assure containment peak pressure remains within the safety analysis. The valves also will be required to be operable such that they can be closed for recirculation. This will not decrease the margin of safety, and assure both the containment spray flow and recirculation flows will be within design margins.

A clarification regarding the recirculation system is provided as a result of recent commitments to upgrade the hot leg recirculation system. In addition, the proposed change will provide train definitions, MODE operability requirements and the associated action statements consistent with the STS. It also will decrease the potential for a mass addition transient in the RCS by enabling the timely isolation of the feedwater/safety injection pumps. These changes will not decrease the margin of safety and will assure the ECCS components are available to [sic] as assumed in the safety analysis.

The proposed change provides relief from the provisions of the current Specification requiring 3.0.3 entry, and subsequent plant shutdown. The current Specifications were generally written prior to the issuance of the Westinghouse STS and do not contain action statements for many of the ECCS required components. In most instances the proposed change incorporates the STS action statement time limits into the Specifications. The use of standard action statements will reduce the need to enter 3.0.3, and the corresponding potential for shutdown transients. This will not decrease the margin of safety and will reduce the number of potential shutdown transients.

The change in the action statement time limit for the containment isolation function of the sequencer subchannels from 6 hours to 72 hours, corresponds to the time limit approved for the sequencer in Amendment No. 84. Operation without the subchannel affects the diversity of one the portion of the containment isolation train, and does not disable the affected train. The change does not significantly reduce the margin of safety, since it only affects one train, and the redundant train will remain fully operational. The change will permit increased operational flexibility, in accordance with the provisions of Specification 3.7, and reduce the potential for plant transients which could result from implementing a plant shutdown under the current six hour action statement.

The proposed Technical Specifications for operation of the ECCS are in accordance with the provisions of the STS and the safety analysis contained in the UFSAR Section 15. The proposed change assures the ECCS will be aligned and operated as required by the safety analysis. The proposed revision does not alter the results of the current safety analysis, or decrease the effectiveness of the Technical Specifications in maintaining the analysis limits and assumptions, such as the peak cladding temperature, DNBR, or the peak containment pressure. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the analysis and, based on that review, it appears that the three criteria are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Attorney for licensee: James Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

NRC Project Director: James E. Dyer, Acting

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: August 24, 1990

Description of amendment request: The license amendment request proposes to implement Technical Specification changes as described in NRC Generic Letter 89-01, "Implementation of Programmatic Controls for Radiological Effluent Technical Specifications in the Administrative Controls Section of the Technical Specifications and the Relocation of Procedural Details of RETS to the Offsite Dose Calculation Manual or the Process Control Program." In accordance with the guidance of Generic Letter 89-01, the proposed change adds new programmatic requirements governing radioactive effluents and radiological environmental monitoring to the Administrative Controls section of the Technical Specifications. Existing Technical Specifications containing procedural details on radioactive effluents, solid radioactive wastes, environmental monitoring, and associated reporting requirements are concurrently being deleted. The procedural details which are to be deleted are being incorporated into the Offsite Dose Calculation Manual (ODCM) or Process Control Program (PCP) as appropriate. The Technical Specification definitions of the ODCM and PCP are also revised to reflect these changes. This amendment request is being proposed as an improvement to the existing Technical Specifications as recommended by Generic Letter 89-01 and consistent with the Commission's Policy Statement for Technical Specifications Improvements.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application. The licensee's findings are as follows:

Standard 1 - Involves a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

This proposed change alters only the format and location of procedural detail and administrative controls relative to radioactive effluents, solid radioactive waste, and radiological environmental monitoring. The change is administrative in nature and does not involve any change to the configuration or operation of plant equipment. Therefore, this proposed change does not increase the probability or consequences on any previously evaluated accident.

Standard 2 - Create the Possibility of a New or Different Kind of Accident From any Previously Evaluated.

Since this proposed change does not involve any change to the configuration or method of operation of any plant equipment, it does not create the possibility of a new or different kind from those previously evaluated.

Standard 3 - Involve A Significant Reduction in the Margin of Safety.

This proposed change relocated procedural detail from the Technical Specifications to the ODCM or PCP. However, new

administrative controls are added to the Technical Specifications which assure the proper control and maintenance of these documents and provides an equivalent level of assurance that activities involving radioactive effluents, solid radioactive waste, and radiological environmental monitoring are conducted in full compliance with regulatory requirements. Therefore, there is no reduction in the margin of safety.

The proposed change does not involve any actual change in the methodology used in the control of radioactive effluents, solid radioactive waste, or radiological environmental monitoring. This change provides for the relocation of procedural detail outside of the Technical Specifications but adds appropriate administrative controls to provide continued assurance of compliance to applicable regulatory requirements. This proposed change complies with the guidance provided by NRC in Generic Letter 89-01.

The staff has reviewed the licensee's no significant hazards considerations determination. Based on the review and the above discussions, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room Location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N. W., Washington, D. C. 20037

NRC Project Director: Christopher I. Grimes

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of application for amendment: August 22, 1990

Brief description of amendment request: The proposed amendment would revise Technical Specification 3/4.7.1.2, "Ultimate Heat Sink," to increase the allowable ultimate heat sink temperature from 82° F to 88° F. The proposed change would allow the licensee to use the ultimate heat sink to cool plant equipment when it is necessary to remove the normal service water system from service for required maintenance and when normal service water temperature nears its design limit of 95° F and adequate temperature differentials are unobtainable.

Date of individual notice in **Federal Register:** August 31, 1990 (55 FR 35743)

Expiration date of individual notice: October 1, 1990

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: July 3, 1990, as supplemented August 22, 1990.

Brief description of amendment: Amendment Application No. 185 proposes to change Technical Specification 3.4.3, "Auxiliary Feedwater System," to allow the minimum system flow requirement to be reduced from 125 gpm to 100 gpm.

Date of publication of individual notice in **Federal Register:** September 10, 1990 (55 FR 37273).

Expiration date of individual notice: Comment period expires October 10, 1990.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Baltimore Gas and Electric Company, Docket No. 50-317, Calvert Cliffs Nuclear Power Plant, Unit No. 1 , Calvert County, Maryland

Date of application for amendment: August 13, 1990

Brief description of amendment: This amendment modifies the existing 0-12 effective full power year (EFPY) heatup and cooldown curves and rates based on the guidance provided in Regulatory Guide 1.99, Revision 2. In addition, adjustments were made to the low temperature overpressure protection (LTOP) mitigating system including changes to the power operated relief valves (PORVs) lift setpoint and the reactor coolant pump (RCP) start controls. The supporting TS Bases were also modified to be consistent with the above TS changes.

Date of issuance: September 18, 1990

Effective date: September 18, 1990
Amendment No.: 146
Facility Operating License No. DPR-53. Amendment revised the Technical Specifications.
Date of initial notice in Federal Register: August 17, 1990 (55 FR 33790)
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 18, 1990.
No significant hazards consideration comments received: No
Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: March 14, 1990, as supplemented August 9 and 29, 1990.
Brief Description of amendments: The amendments change the TS to (1) permit the removal of the rod sequence control system and (2) reduce the rod worth minimizer cut off setpoint from 20% rated thermal power to 10% rated thermal power.
Date of issuance: September 11, 1990
Effective date: September 11, 1990
Amendment Nos.: 144 and 175
Facility Operating License Nos. DPR-71 and DPR-62. Amendments revise the Technical Specifications.
Date of initial notice in Federal Register: April 18, 1990 (55 FR 14501) The August 9, 1990 and August 29, 1990, letters provided supplemented information that did not alter the staff's initial determination of no significant hazards consideration. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 11, 1990.
No significant hazards consideration comments received: No.
Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: May 16, 1990
Brief description of amendments: The proposed amendment to Operating License No. NPF-11 and Operating License No. NPF-18 would revise the LaSalle County Station, Units 1 and 2, Technical Specifications (TS) to revise the "single largest load reject" test value discrepancy between the TS and the UFSAR by using the more conservative UFSAR value. Also, to clarify the requirements for the automatic bypassing of the diesel generator trips on an ECCS actuation signal for Division 3 the licensee is proposing to reword the requirement so that it is consistent with the LaSalle Station design and the Branch Technical Position BTP ICSB-17 and Position 7 of the Regulatory Guide 1.9.
Date of issuance: September 13, 1990
Effective date: September 13, 1990
Amendment Nos.: 75 and 59
Facility Operating License Nos. NPF-11 and NPF-18: The amendments revised the Technical Specifications.
Date of initial notice in Federal Register: June 27, 1990 (55 FR 26279) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 13, 1990
No significant hazards consideration comments received: No
Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348
NRC Project Director: Richard J. Barrett

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: July 16, 1990
Brief description of amendments: Revision of Technical Specifications to reflect a High Pressure Coolant Injection (HPCI) area fire protection modification which replaces spot-type heat detectors with a linear heat detector.
Date of issuance: September 13, 1990
Effective date: September 13, 1990
Amendment Nos.: 126 and 122
Facility Operating License Nos. DPR-29 and DPR-30. The amendments revised the Technical Specifications.
Date of initial notice in Federal Register: August 8, 1990 (55 FR 32324) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 13, 1990.
No significant hazards consideration comments received: No
Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.
NRC Project Director: Richard J. Barrett

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: July 26, 1990
Brief description of amendment: The amendment will provide an exception to specification 4.0.4 for entry into Mode 3 for surveillance requirement 4.7.1.2.2, "Auxiliary Feedwater System Operability." This TS change will allow the plant to progress to Mode 3 without first demonstrating auxiliary feedwater operability.
Date of Issuance: September 19, 1990
Effective date: September 19, 1990
Amendment No.: 131
Facility Operating License No. DPR-61. Amendment revised the Technical Specifications.
Public comments requested as to proposed no significant hazards consideration: Yes (55 FR 32715 dated August 10, 1990). The notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by September 10, 1990, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment. The Commission's related evaluation of the amendment and final no significant hazards consideration determination is contained in a Safety Evaluation dated September 19, 1990.
Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: November 15, 1988 as supplemented November 16, 1989.
Brief description of amendment: This amendment revises a list of required accident monitoring instrumentations to eliminate confusion with the Technical Specifications (TS) and better reflect the as-built conditions of the plant.
Date of issuance: September 10, 1990
Effective date: September 10, 1990
Amendment No.: 56
Facility Operating License No. NPF-43. The amendment revises the Technical Specifications.
Date of initial notice in Federal Register: May 17, 1989 (54 FR 21305) The November 16, 1989 submittal provided additional clarifying information and did not change the initial no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 10, 1990.
No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: September 27, 1989

Brief description of amendment: This amendment revises the Technical Specifications (TS) by adding a remote-manual primary containment isolation valve, associated with the installation of enhanced primary containment water level instrumentation, to the valves listed in TS Table 3.6.3-1, Primary Containment Isolation Valves.

Date of issuance: September 13, 1990

Effective date: September 13, 1990

Amendment No.: 57

Facility Operating License No. NPF-43. The amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** February 15, 1990 (55 FR 5523) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 13, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: April 24, 1990

Brief description of amendments: The amendments relocate tabular listings of containment penetration conductor overcurrent protective devices from the TSs to Chapter 16 of the Final Safety Analysis Report, "Selected Licensee Commitment Manual."

Date of issuance: September 18, 1990

Effective date: September 18, 1990

Amendment Nos.: 114 and 96

Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 16, 1990 (55 FR 20353) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 18, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: July 13, 1990

Brief description of amendments: The amendments delete a portion of the surveillance requirements of TS 4.5.2.d regarding periodic verification that the suction isolation valves of the Residual Heat Removal (ND) System automatically close on a Reactor Coolant System signal less than or equal to 560 psig. These amendments, in effect, authorize removal of the ND Autoclosure Interlock (ACI) circuitry.

Date of issuance: September 11, 1990

Effective date: September 11, 1990

Amendment Nos.: 112 and 94

Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 8, 1990 (55 FR 32326) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 11, 1990

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit 1, Pope County, Arkansas

Date of amendment request: August 9, 1989 as supplemented on March 30 and June 15, 1990.

Brief description of amendment: The amendment added limiting conditions for operation and reporting requirements to the Arkansas Nuclear One, Unit 1 Technical Specifications (ANO-1 TS) regarding Seismic Monitoring Instrumentation and changed the exiting surveillance testing requirements for clarity and to achieve consistency with the ANO-2 TS.

Date of issuance: September 13, 1990

Effective date: September 13, 1990

Amendment No.: 135

Facility Operating License No. DPR-51. Amendment revised the Technical Specifications/license.

Date of initial notice in **Federal Register:** November 1, 1989 (54 FR 46139) The March 30 and June 15, 1990 supplements provided clarifying information and did not change the proposed finding of the original notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 13, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of application for amendment: March 9, 1990

Brief description of amendment: This amendment revises Technical Specifications 2.2.1, Reactor Trip Setpoints, and 3/4.3.2, Engineered Safety Feature Actuation System Instrumentation. The changes lower the Reactor Protection System generator level-low trip setpoint from greater than or equal to 37.0% narrow range to greater than or equal to 20.5% narrow range. The Auxiliary Feedwater Actuation System setpoint for the steam generator level-low trip is lowered from its current value of greater than or equal to 29.0% narrow range to greater than or equal to 19.0% narrow range. The changes also reduce the Auxiliary Feedwater System response time on low steam generator level. Additionally, the changes revise the allowable values for steam generator and feedwater header high differential pressure for auxiliary feedwater initiation.

Date of Issuance: September 11, 1990

Effective Date: September 11, 1990

Amendment No.: 105

Facility Operating License No. DPR-67: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 4, 1990 (55 FR 12592) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 11, 1990

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Ft. Pierce, Florida.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: March 1, 1990

Brief description of amendments: The amendments revise administrative Technical Specification 6.7.4.a by removing the parenthetical reference to the Boron Recycle System from the description of systems included in a program of leakage inspection and testing.

Date of issuance: September 18, 1990

Effective date: September 18, 1990
Amendment Nos.: 35 & 15
Facility Operating License Nos. NPF-68 and NPF-81: Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** April 18, 1990 (55 FR 14506) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 18, 1990. No significant hazards consideration comments received: No.
Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of application for amendment: November 20, 1989
Description of amendment request: The amendment exempted two containment isolation valves from monthly position verification to reduce personnel radiation exposure.
Date of issuance: September 18, 1990
Effective date: September 18, 1990
Amendment No.: 46
Facility Operating License No. NPF-62. The amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** July 11, 1990 (55 FR 28478) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 18, 1990.
No significant hazards consideration comments received: No
Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of application for amendment: July 11, 1990, as supplemented September 12, 1990
Description of amendment request: This amendment revised the Action for the Divisions III and IV inverters to require only that the High Pressure Core Spray system be declared inoperable and the appropriate ECCS Action requirements be followed.
The initial amendment request was supplemented by the licensee's submittal dated September 12, 1990, which described a change in circumstances due to a problem that developed with the Division III Shutdown Service Water pump. Due to the essential support provided to the inverter's heat removal system by the SSW system, the removal of the SSW pump from service would require declaring the inverters inoperable which would require plant shutdown be initiated in 24 hours.
Date of issuance: September 17, 1990
Effective date: September 17, 1990
Amendment No.: 45
Facility Operating License No. NPF-62. The amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: Yes. Notice of consideration of issuance of the initial application was published in the **Federal Register** on September 5, 1990 (55 FR 36345). No comments were received on that notice. No public comments were requested on the September 12, 1990 letter which requested emergency handling of the July 11, 1990 application. The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a safety Evaluation dated September 17, 1990.
Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606
Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Indiana Michigan Power Company, Docket No. 50-316, Donald C. Cook Nuclear Plant, Unit No. 2, Berrien County, Michigan

Date of application for amendment: May 14, 1990
Brief description of amendment: This amendment changes Technical Specification (TS) 3/4.7.1.5.1.b, "Steam Generator Stop Valves," to require full valve closure within 8 seconds. TS Table 3.3-5, "Engineered Safety Features Response Times," has been changed to reflect the increased closure time. In addition, a number of editorial changes have been made to TS 3.3-5 for readability.
Date of issuance: September 18, 1990
Effective date: September 18, 1990
Amendment No.: 135
Facility Operating License No. DPR-74. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** June 27, 1990 (55 FR 26287). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 18, 1990.
No significant hazards consideration comments received: No.
Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy, Center, Linn County, Iowa

Date of application for amendment: July 27, 1988, as revised June 29, 1990
Brief description of amendment: The amendment revised the Technical Specifications to conform with the guidance of NRC Generic Letter 88-01, "NRC Position on IGSCC in BWR Austenitic Stainless Steel Piping." Additional changes updating schedules for the 10-year inservice inspection and testing programs and other clarifications were also included.
Date of issuance: September 19, 1990
Effective date: September 19, 1990
Amendment No.: 169
Facility Operating License No. DPR-49. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** July 25, 1990 (55 FR 30301) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 19, 1990. No significant hazards consideration comments received: No.
Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S. E., Cedar Rapids, Iowa 52401.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: June 1, 1990
Brief description of amendment: The amendment changed the Cooper Nuclear Station Technical Specifications by: 1) Deleting the existing limit of 3.25 times the surveillance interval for three successive surveillances, 2) utilizing the suggested wording of Generic Letter 89-14 to define the 25 percent surveillance allowance, and 3) incorporating the suggested wording for the Bases from the Generic Letter into the Cooper Technical Specifications.
Date of issuance: September 11, 1990
Effective date: September 11, 1990
Amendment No.: 134
Facility Operating License No. DPR-46. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** July 25, 1990 (55 FR 30302) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 11, 1990.
No significant hazards consideration comments received: No.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of application for amendment: June 18, 1990

Brief description of amendment: The change to the Technical Specifications would add a requirement to ensure the operability and periodic testing of a modification made to the 14A to 14G tie breaker.

Date of issuance: September 12, 1990

Effective date: September 12, 1990

Amendment No.: 45

Facility Operating License No. DPR-21. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 25, 1990 (55 FR 30303) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 12, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: June 13, 1990

Brief description of amendment: The amendment changes Millstone Unit 3 Technical Specification (TS) 4.0.2 by deleting the requirement that the combined time interval for any three consecutive surveillance intervals is not to exceed 3.25 times the specific surveillance interval.

Date of issuance: September 19, 1990

Effective date: September 19, 1990

Amendment No.: 54

Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 25, 1990 (55 FR 30304) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 19, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: June 29, 1990

Brief description of amendment: The amendment changes Millstone Unit 3 Technical Specification (TS) 4.4.8, "Specific Activity," to allow reactor startup without prior determination of E-bar (a measurement of the specific activity of all isotopes in the reactor coolant that have half lives greater than 10 minutes).

Date of issuance: September 19, 1990

Effective date: September 19, 1990

Amendment No.: 55

Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 8, 1990 (55 FR 32329) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 19, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: February 12, 1990

Brief description of amendments: Temporary extension of allowable Limiting Condition for Operation for Service Water System from 3 days to 7 days.

Date of issuance: September 20, 1990

Effective date: Unit 1, as of date of issuance and must be implemented on a one-time basis only during the refueling outage scheduled to start on September 8, 1990. Unit 2, as of date of issuance and must be implemented on a one-time basis only during the refueling outage scheduled to start on March 9, 1991.

Amendment Nos.: 100 and 68

Facility Operating License Nos. NPF-14 and NPF-22. These amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 20, 1990 (55 FR 33992) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 20, 1990

No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Philadelphia Electric Company, Public Service Electric and Gas Company Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: December 28, 1989 as supplemented on February 16, 1990. The supplemental letter provided administrative information. The staff has determined that this information does not affect the proposed no significant hazards determination.

Brief description of amendments: These amendments changed the Technical Specification to reflect the addition of high-high radiation trip signal requirement for the control circuitry purge and vent isolation valves located on lines larger than two inches in diameter.

Date of issuance: September 7, 1990

Effective date: September 7, 1990

Amendment Nos.: 156 and 158

Facility Operating License Nos. DPR-44 and DPR-56: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 2, 1990 (55 FR 18412) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 7, 1990

No significant hazards consideration comments received: No

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: June 21, 1990, as supplemented July 27, 1990.

Brief description of amendment: The amendment revises the Technical Specifications to remove cycle-specific parameter limits from the Technical Specifications and to reference a Core Operating Limits Report. These changes are in accordance with NRC Generic Letter 88-16.

Date of issuance: September 11, 1990

Effective date: September 11, 1990

Amendment No.: 103

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 25, 1990 (55 FR 30309) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 11, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: July 26, 1990

Brief description of amendment: The amendment revises the Technical Specifications to incorporate a cycle-specific change regarding the substitution of two failed fuel rods, located in assembly T53 at the core center, with two stainless steel rods.

Also included in this amendment is a correction to Technical Specification page 5.3-2 which incoporates text previously approved by Amedment No. 86 but inadvertently deleted by Amendment No. 101.

Date of issuance: September 19, 1990

Effective date: September 19, 1990

Amendment No.: 104

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 8, 1990 (55 FR 32331) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 19, 1990

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: May 21, 1990 and supplemented by letter dated July 18, 1990. The supplemental letter did not increase the scope of the original amendment request and did not affect the staff's original no significant hazards analysis.

Brief description of amendments: These amendments relaxed the reportability requirements for the reactor trip and reactor trip bypass breakers surveillance testing.

Date of issuance: September 10, 1990

Effective date: Units 1 and 2: As of the date of issuance and shall be implemented within 60 days of the date of issuance.

Amendment Nos. 114 and 96

Facility Operating License Nos. DPR-70 and DPR-75. These amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 27, 1990 (55 FR 26293) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 10, 1990

No significant hazards consideration comments received: No

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

Public Service Electric & Gas Company, Docket No. 50-311, Salem Generating Station, Unit No. 2, Salem County, New Jersey

Date of application for amendment: February 23, 1990 and supplemented by letters dated June 28, 1990 and August 8, 1990. The supplemental letters did not increase the scope of the original amendment request and did not affect the staff's original no significant hazards determination.

Brief description of amendment: This amendment modified the Subcooling Margin Monitor (SMM) Technical Specifications (TSs) and included TSs for the Reactor Vessel Level Instrumentation System (RVLIS) with interim requirements. The RVLIS technical specifications include a footnote terminating the applicability of the interim action statement at the end of the Salem Unit 2 6th refueling outage (Fall 1991) when RVLIS will be upgraded. In addition, Tables 3.3-11a and 3.3-11b have been combined into Table 3.3-11.

Date of issuance: September 10, 1990

Effective date: Unit 2 is effective as of the date of issuance to be implemented within 30 days of the date of issuance.

Amendment No. 95

Facility Operating License No. DPR-75: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 30, 1990 (55 FR 21979) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 10, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: December 28, 1989, as supplemented March 16, 1990

Brief description of amendment: This amendment revised the license condition concerning the Fire Protection Plan and added administrative controls to the Technical Specifications (TS) in support of the Fire Protection Plan as described in Generic Letter 86-10, "Implementation of Fire Protection Requirements," dated April 24, 1986. It also removed the Fire Protection requirements from the TS to the Fire Protection Plan as described in Generic Letter 88-12, "Removal of Fire Protection requirements from Technical Specification," dated August 2, 1988.

Date of issuance: September 10, 1990

Effective date: September 10, 1990

Amendment No.: 115

Facility Operating License No. DPR-54: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 25, 1990 (55 FR 30310). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 10, 1990

No significant hazards consideration comments received: No.

Local Public Document Room location: Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95822.

NRC Project Director: John T. Larkins, Acting

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendments: April 19, 1990

Brief description of amendments: These amendments revise the Technical Specifications deleting reference to a fixed in line rotometer as listed on Table 3.2.D. for radwaste liquid effluent monitoring instrumentation. This instrument has been replaced as a consequence of a plant modification to improve the licensee's ability to measure radiological liquid effluent discharges.

Date of issuance: September 7, 1990

Effective date: September 7, 1990

Amendment Nos.: 175, 178, 146

Facility Operating Licenses Nos. DPR-33, DPR-52 and DPR-68: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 27, 1990 (55 FR 26294) The

Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 7, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: June 26, 1990

Brief description of amendments: The amendments add an NRC standard fire protection license condition to the operating licenses and relocate fire protection requirements from the TS to the NA-1&2 Updated Final Safety Analysis Report.

Date of issuance: September 13, 1990

Effective date: September 13, 1990

Amendment Nos.: 140 and 123

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the operating licenses and the Technical Specifications.

Date of initial notice in **Federal Register:** August 8, 1990 (55 FR 32333) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 13, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: June 25, 1990

Brief description of amendment: This amendment changes Technical Specifications by specifying only the tank level and deleting the redundant gallons values for the Safety Injection Tank (SIT). Also, the "Bases" for Section 3/4.5.4 will be revised to show that the SIT reserve is increased from 40,000 gallons to 52,000 gallons.

Date of issuance: September 10, 1990

Effective date: September 10, 1990

Amendment No.: 136

Facility Operating License No. DPR-28: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 8, 1990 (55 FR 32335) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 8, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION

During the period since publication of the last biweekly notice, individual notices of issuance of amendments have been issued for the facilities as listed below. These notices were previously published as separate individual notices. They are repeated here because this biweekly notice lists all amendments that have been issued for which the Commission has made a final determination that an amendment involves no significant hazards consideration.

In this case, a prior Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing was issued, a hearing was requested, and the amendment was issued before any hearing because the Commission made a final determination that the amendment involves no significant hazards consideration.

Details are contained in the individual notice as cited.

The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: December 19, 1989, as supplemented March 30, 1990.

Brief description of amendment request: The amendment removed cycle-specific parameters from the Technical Specifications (TS) Sections 3.2.1. (Average Planar Linear Heat Generation Rate), 3.2.2 (Minimum Critical Power Ratio) and 3.2.3 (Linear Heat Generation Rate) and placed them in the Core Operating Limits Report (COLR). It also modified section 5.3.1 of the TS for fuel descriptions and added a definition for the COLR to the TS. The amendment also added a reporting requirement to submit the COLR to the NRC staff for information and review.

Date of issuance: September 13, 1990

Effective date: September 13, 1990

Amendment No. 33

Facility Operating License No. NPF-58.

This amendment revised the Technical Specifications. Date of individual notice in **Federal Register:** September 20, 1990 (55 FR 38763)

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an

opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By November 2, 1990, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, DC 20555 and at the Local Public Document Room for the particular facility involved.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (Project Director): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington,

DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of application for amendment: September 11, 1990

Brief description of amendment: The amendment modifies the Technical Specifications by changing the containment spray interlock trip level setting in TS Table 3.2.2 from between 4.5 and 5.5 psig to between 9.0 and 10.0 psig.

Date of issuance: September 17, 1990

Effective date: September 17, 1990

Amendment No.: 46

Facility Operating License No. DPR-21. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No

The Commission's related evaluation of the amendment and final no significant hazards consideration determination is contained in a Safety Evaluation dated September 17, 1990.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of Application for amendment: September 4, 1990

Brief description of amendment: The amendments changed the Technical Specifications to provide relief from the provisions of Section 3.8.1.1 (A.C. Sources-Operation) action b, by permitting a one-time extension of the limiting condition for operation (LCO) from 72 hours to 15 days.

Date of Issuance: September 13, 1990

Effective Date: September 6, 1990

Amendment Nos.: 99 and 67

Facility Operating License Nos. NPF-14 and NPF-22: Amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No. These amendments were authorized by telephone on September 6, 1990 and confirmed by letter dated September 6, 1990.

The Commission's related evaluation of the amendments, consultation with the Commonwealth of Pennsylvania and final no significant hazards consideration determination are contained in a Safety Evaluation dated September 13, 1990.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge 2300 N Street N.W., Washington, DC 20037.

Local Public Document Room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18071.

NRC Project Director: Walter R. Butler

Dated at Rockville, Maryland, this 26th day of September 1990.

For the Nuclear Regulatory Commission

Dennis M. Crutchfield,

Director, Division of Reactor Projects-III, IV, V and Special Projects Office of Nuclear Reactor Regulation

[Doc. 90-23254 Filed 10-2-90; 8:45 am]

BILLING CODE 7590-01-D

[Docket No. 50-461]

Illinois Power Co., et al.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 47 to Facility Operating License No. NPF-62, issued to Illinois Power Company and Soyland Power Cooperative, Inc. (the licensee), which revised the Technical Specifications for operation of the Clinton Power Station, Unit No. 1 (the facility), located in DeWitt County, Illinois. The amendment was effective as of the date of issuance.

This amendment revised the Technical Specifications (TS) to remove the requirement for isolation of the Containment Monitoring (CM) and Process Sampling (PS) Systems upon a Containment Building Exhaust High Radiation signal.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on June 14, 1988 (53 Fr 22247) No request for hearing or petition for leave to intervene was filed following this notice.

For further details with respect to the action see (1) the application for amendments dated February 5, 1988 (2) Amendment No. 47 to License No. NPF-62, (3) the Commission's related Safety Evaluation dated Sept. 25, 1990 and (4) the Environmental Assessment dated August 6, 1990 (55 FR 33192). All of these items are available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street NW., Washington, DC., and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III, IV, V and Special Projects.

Dated at Rockville, Maryland this 25th day of September, 1990.

For the Nuclear Regulatory Commission.

John N. Hannon,

Director, Project Directorate III-3, Division of Reactor Projects—III, IV, V and Special Projects Office of Nuclear Reactor Regulation

[FR Doc. 90-23368 Filed 10-2-90; 8:45 a.m.]

BILLING CODE 7590-01-M

[Docket No. 50-281]

Virginia Electric and Power Co. (Surry Power Station, Unit 2); Exemption

I.

The Virginia Electric and Power Company (VEPCO, the licensee) is the holder of Operating License No. DPR-37, which authorizes operation of Surry Power Station (SPS), Unit 2. The operating license provides, among other things, that the SPS, Unit 2 is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of a pressurized water reactor at the licensee's site in Surry County, Virginia.

II.

One of the conditions of all operating licenses for water-cooled power reactors, as specified in 10 CFR 50.54(o), is that the primary containment shall meet the leakage test requirements set forth in 10 CFR part 50, appendix J. More specifically, section III.D.3 of appendix J, "Type C tests," requires that:

> Type C tests shall be performed during each reactor shutdown for refueling but in no case at intervals greater than 2 years.

By letter dated September 14, 1990, as supplemented September 18, 1990, VEPCO requested a schedular exemption from the regulatory requirements of 10 CFR part 50, appendix J, section III.D.3 until June 30, 1991. This section requires, in part, periodic testing of isolation barriers (valves) associated with certain containment penetrations. The interval between leak rate tests is not to exceed 2 years. A recent quality assurance audit of the Surry Inservice Inspection program revealed that VEPCO's implementation of the Type C test program does not satisfy this test interval requirement. Due to a misinterpretation of appendix J, VEPCO was unaware of this anomaly until September 7, 1990. VEPCO had interpreted appendix J to mean that the 2-year inspection interval was initiated at the end of the overall Type C periodic testing rather than applied individually to each valve. VEPCO requested an exemption from this requirement so that the required testing on certain containment isolation valves can be performed during the 1991 SPS, Unit 2 refueling outage, which is in excess of the maximum allowed 2-year interval which expires on September 18, 1990. Therefore, the proposed exemption would allow a one-time relief from performing Type C tests for valves which would otherwise require testing between September 18, 1990 and April 1991. In the above submittals, VEPCO evaluated the acceptability of the exemption request. More details are contained in the NRC's Safety Evaluation issued concurrent with this exemption.

III.

SPS, Unit 2 was shut down for refueling on September 10, 1988 and remained in refueling outage until September 19, 1989 (374 days) to perform maintenance and modifications. During this interval, the last local Type C tests were completed. Due to the extended maintenance outage, the next refueling outage is currently scheduled for the second quarter of 1991. The interval between the refueling outages will exceed the 2-year limit of appendix J. Therefore, an exemption to this appendix J requirement in the form of a one-time extension of the interval is being requested. In addition to this exemption request, by letter dated September 14, 1990, VEPCO requested a one-time conforming Technical Specifications (TS) change to reflect the requested exemption by adding a footnote to TS 4.4.B.2 and 4.4.D denoting the appendix J exemption.

As indicated above, the intent of appendix J was that isolation valves and associated penetrations be tested during each refueling outage but at intervals not to exceed 2 years. SPS, Unit 2 is presently scheduled for a refueling outage in April 1991. The exemption would allow local leak rate Type C tests for the 76 affected containment isolation valves to be postponed until the next refueling outage, which is in excess of the 2-year interval. Such an extension is desirable in order to prevent the need for earlier shutdown of the plant to perform the required tests.

During the extended maintenance outage which lasted approximately 1 year, modifications and testing were performed on the emergency diesel generators, the circulating and service water systems and the electrical distribution system. In addition, during this time, plant components were not exposed to the normally severe operating temperatures, pressures and radiation conditions. As of April 30, 1991, when this exemption expires, the total exposure time for the valves and containment penetrations to the normal plant operating environment will be only about 19 months; the remainder calendar time between valve testing will have occurred during periods of cold shutdown in a less hostile environment. Based on the good material condition, improved maintenance history of the subject valves, and the projected leakage rate, the granting of an extension will not impair valve operability or significantly degrade leak tightness.

The 2-year interval requirement for the Type C penetrations is intended to be often enough to prevent significant deterioration from occurring and long enough to permit the local leak rates tests (LLRTs) to be performed during plant outages. In addition, leak testing of the penetrations during plant shutdown is preferable because of the lower radiation exposures to plant personnel. Moreover, some penetrations, because of their intended functions, cannot be tested at power operation. For penetrations that cannot be tested during power operation or those that, if tested during plant operation, would cause a degradation in the plant's overall safety (e.g., the closing of a redundant line in a safety system), the increase in confidence of containment integrity following a successful test is not significant enough to justify a plant shutdown specifically to perform the LLRTs within the 2-year time period, especially in light of the above discussions.

IV.

Pursuant to 10 CFR 50.12(a)(2)(v), the Commission will not consider granting a schedular exemption unless the licensee has made good faith efforts to comply with the regulation. The NRC staff believes that VEPCO has taken prudent steps to improve the containment integrity and, if not for the extended refueling outage, would have complied with appendix J.

Based on our evaluation, the NRC staff has concluded VEPCO has made good faith efforts to comply with the requirements of appendix J and that the special circumstances as described in 10 CFR 50.12(a)(2)(v) exist, in that the exemption would provide only temporary relief from the applicable regulation. However, based on the information provided, it is the staff's view that the exemption interval shall be effective until April 30, 1991 rather than the requested date of June 30, 1991, because this interval should provide sufficient time to complete the required tests following the start of the April 5, 1991, refueling outage. Therefore, the staff has determined that a schedular exemption for 10 CFR part 50, appendix J should be granted.

V.

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12, the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption request.

A temporary exemption is granted from the requirements of section III.D.3, which requires a local leak rate test be conducted within 2-year interval. For good cause shown, this exemption extends that period by approximately 7 months from September 18, 1990 until April 30, 1991.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (55 FR 38616).

A copy of the licensee's request for exemption dated September 14, 1990, as supplemented September 18, 1990, is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW. Washington, DC, and at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 26th day of September 1990.

For the Nuclear Regulatory Commission.

Stevan A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-23369 Filed 10-2-90; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service: Schedules A, B, and C

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: John Daley, (202) 606-0950.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR part 213 on August 31, 1990 (55 FR 12973). Individual authorities established or revoked under Schedules A, B, or C between August 1, 1990, and August 31, 1990, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30, 1990.

Schedule A

No Schedule A authorities were established or revoked during August.

Schedule B

No Schedule B authorities were established or revoked during August.

Schedule C

Department of the Air Force

One Confidential Assistant to the Secretary. Effective Ausut 17, 1990.

Department of Agriculture

One Staff Assistant to the Director, Programs and Planning, Office of Public Affairs. Effective August 21, 1990.

One Private Secretary to the Administrator, Farmers Home Administration. Effective August 22, 1990.

One Confidential Assistant to the Administrator, Agricultural Marketing Service. Effective August 28, 1990

Agency for International Development

One Special Assistant to the Deputy Assistant Administrator, Bureau for Asia, Near East and Europe, Effective August 9, 1990.

One Special Assistant to the Assistant Administrator, Bureau for Latin America and the Caribbean. Effective August 15, 1990.

One Special Assistant to the Assistant Administrator, Bureau for External Affairs. Effective August 15, 1990.

Commission on Civil Rights

One Special Assistant to a Commissioner. Effective August 3, 1990.

Commodity Futures Trading Commission

One Administrative Assistant to a Commissioner. Effective August 28, 1990.

Department of Commerce

One Special Assistant to the Chief of Staff. Effective August 9, 1990.

One Special Assistant to the Chief of Staff. Effective August 10, 1990.

One Confidential Assistant to the Chief Counsel of Technology. Effective August 10, 1990.

One Confidential Assistant to the Deputy Assistant Secretary for Technology Policy. Effective August 10, 1990.

One Deputy to the Director, Office of Export Trading Company Affairs. Effective August 10, 1990.

One Confidential Assistant to the Assistant Secretary for Trade Development. Effective August 15, 1990.

One Confidential Assistant to the Deputy Under Secretary for International Trade. Effective August 16, 1990.

One Special Assistant to the Senior Advisor to the Secretary. Effective August 22, 1990.

One Confidential Assistant to the Under Secretary for International Trade. Effective August 23, 1990.

One Confidential Assistant to the Deputy Assistant Secretary for Trade Development. Effective August 31, 1990.

Department of Defense

Two Law Clerks to Judges, U.S. Court of Military Appeals. Effective August 13, 1990.

One Principal Director to the Deputy Assistant Secretary for Drug Enforcement Policy. Effective August 17, 1990.

One Government Affairs Officer to the Deputy Assistant Secretary for Drug Enforcement Policy. Effective August 17, 1990.

One Private Secretary to the Assistant Secretary (Special Operations/Low Intensity Conflict). Effective August 28, 1990.

One Confidential Assistant to the Under Secretary for Acquisition. Effective August 29, 1990.

One Director of Protocol to the Secretary. Effective August 30, 1990.

Department of Energy

One Special Assistant to the Director, Division of Congressional Affairs and State Liaison, Federal Energy Regulatory Commission. Effective August 1, 1990.

One Special Assistant to the Associate Director for Human Resource Management. Effective August 15, 1990.

One Staff Assistant to the Chief of Staff. Effective August 16, 1990.

One Confidential Assistant to the Press Secretary. Effective August 22, 1990.

One Senior Policy Advisor to the Director, Office of Environmental Restoration and Waste Management. Effective August 28, 1990.

One Staff Assistant to the Director, Office of Nuclear Safety. Effective August 29, 1990.

One Staff Assistant to the Assistant Secretary for International Affairs and Energy Emergencies. Effective August 29, 1990.

Department of Transportation.

One Staff Assistant to the Director, Office of Small and Disadvantaged Business Utilization. Effective August 13, 1990.

One Director, Office of Speechwriting and Research, to the Assistant Secretary for Public Affairs. Effective August 21, 1990.

Department of Education

One Confidential Assistant to the Chief of Staff/Counselor to the Secretary. Effective August 6, 1990.

One Deputy to the Director, Private Sector Initiative Staff. Effective August 17, 1990.

One Executive Assistant to the Deputy Under Secretary for Management. Effective August 22, 1990.

One Executive Assistant to the Assistant Secretary for Civil Rights. Effective August 27, 1990

Federal Communications Commission

One Special Assistant to the Director, Office of International Communications. Effective August 1, 1990.

General Services Administration

One Confidential Assistant to the Regional Administrator, Region 5. Effective August 22, 1990.

One Special Assistant to the Commissioner, Public Buildings Service. Effective August 22, 1990.

One Confidential Assistant to the Regional Administrator, Region 7. Effective August 30, 1990.

Department of Health and Human Services

One Special Assistant to the Associate Commissioner for Public Affairs, Social Security Administration. Effective August 1, 1990.

One Confidential Staff Assistant to the Staff Director, Advisory Council on Social Security, Health Care Financing Administration. Effective August 3, 1990.

One Confidential Staff Assistant to the Staff Director, Advisory Council on Social Security, Health Care Financing Administration. Effective August 6, 1990.

One Director, Office of Family Planning, to the Deputy Assistant Secretary for Populatioin Affairs. Effective August 9, 1990.

One Special Assistant to the Assistant Secretary for Planning and Evaluatiion. Effective August 15, 1990.

One Special Assistant to the Assistant Secretary for Family Support. Effective August 16, 1990.

One Special Assistant to the Deputy Director, Office of Child Support Enforcement. Effective August 23, 1990.

One Special Assistant to the Deputy Assistant Secretary for Legislation (Health). Effective August 30, 1990.

Department of Housing and Urban Development

One Special Assistant to the Secretary. Effective August 6, 1990.

Two Assistants to the Deputy Assistant Secretary for Congressional Relations. Effective August 16, 1990.

One Special Assistant—Multifamily Housing for Resident Initiatives, to the Deputy Assistant Secretary for Multifamily Housing Programs. Effective August 22, 1990.

One Staff Assistant to the Assistant Secretary for Housing—Federal Housing Commissioiner. Effective August 23, 1990.

One Special Assistant to the Regional Administrator—Regional Housing Commissioner. Effective August 27, 1990.

One Executive Assistant to the President, Government National Mortgage Association. Effective August 28, 1990.

One Special Assistant to the General Deputy Assistant Secretary for Housing. Effective August 30, 1990.

Interstate Commerce Commission

One Attorney—Advisor to a Commissioner. Effective August 17, 1990.

Department of Interior

One Special Assistant to the Assistant Secretary and Director, External Affairs. Effective August 6, 1990.

One Special Assistant to the Secretary and Executive Director of Correspondence to the Special Assistant—Policy and Programs (Chief of Staff). Effective August 17, 1990.

One Staff Assistant to the Director, Office of Surface Mining. Effective August 17, 1990.

One Special Assistant to the Executive Assistant to the Director. Effective August 17, 1990.

Department of Justice

One Special Assistant to the Assistant Attorney General, Environment and Natural Resources Division. Effective August 3, 1990.

One Staff Assistant to the Deputy Director, Office of Public Affairs. Effective August 17, 1990.

One Confidential Assistant to the Director, Office of Policy Development. Effective August 30, 1990.

One Confidential Assistant to the Deputy Director, Office of Policy Development. Effective August 30, 1990.

Department of Labaor

One Special Assistant to the Chief of Staff. Effective August 29, 1990.

National Transportation Safety Board

One Director, Office of Congressional and Intergovernmental Relations, to the Chairman. Effective August 10, 1990.

Office of Management and Budget

One Legislative Assistant to the Associate Director for Legislative Affairs. Effective August 16, 1990.

Office of Science and Technology Policy

One Correspondence and Information Control Assistant to the Assistant to the President. Effective August 3, 1990.

President's Commission on Executive Exchange

One Assistant to the Associate Director for Education. Effective August 10, 1990.

One Confidential Assistant to the Executive Director. Effective August 30, 1990.

Small Busines Administration

One Special Assistant to the Associate Deputy Administrator for Special Programs. Effective August 6, 1990.

One Special Assistant to the Regional Administrator, Region IX. Effective August 27, 1990.

One Special Assistant to the Counselor to the Administrator. Effective August 28, 1990.

Department of State

One Special Assistant to the Under Secretary for Political Affairs. Effective August 3, 1990.

One Secretary—Stenographer to the Assistant Secretary for Intelligence and Research. Effective August 10, 1990.

One Staff Assistant to the Special Assistant to the Assistant Secretary, Bureau of Public Affairs. Effective August 23, 1990.

One Special Assistant to the Under Secretary for Economic Affairs. Effective August 27, 1990.

The United States Tax Court

One Secretary (Confidential Assistant) to a Judge. Effective August 29, 1990.

Department of the Treasury

One Staff Assistant to the Director, United States Mint. Effective August 9, 1990.

One Director, Office of Public Affairs, to the Deputy Assistant Secretary (Public Affairs). Effective August 13, 1990.

One Counselor to the Chief Counselor, Office of Thrift Supervision. Effective August 16, 1990.

One Confidential Assistant to the Under Secretary for International Affairs. Effective August 16, 1990.

One Travel Assistant to the Deputy Assistant Secretary for Administration. Effective August 31, 1990.

United States Informatiion Agency

One Special Assistant (Writer/Editor) to the Director, Office of Public Liaison. Effective August 29, 1990.

Authority: 5 U.S.C. 3301; E.O. 10555, 3 CFR 1954–1958 Comp., R218.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 90–23355 Filed 10–2–90; 8:45 am]

BILLING CODE 6325–01–M

OVERSIGHT BOARD

Regions 3 Through 6 Advisory Board Meetings

AGENCY: Oversight Board.

ACTION: Meeting notice.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is hereby published for the regional advisory board meetings for Regions 3 through 6. The meetings are open to the public.

DATES: The meetings are scheduled as follows:

1. October 18, 1990, 10 a.m to 3:30 p.m., Chicago, IL, Region 3 Advisory Board.
2. October 30, 1990, 10 a.m. to 3:30 p.m., Oklahoma City, OK, Region 4 Advisory Board.
3. November 1, 1990, 9 a.m. to 2:30 p.m., Albuquerque, NM, Region 5 Advisory Board.
4. November 8, 1990, 10 a.m. to 3:30 p.m., Phoenix, AZ, Region 6 Advisory Board.

ADDRESSES: The meetings will be held at the following locations:

1. Chicago, IL—Northwestern University School of Law, Strawn Hall, McCormick Bldg., 350 E. Superior.
2. Oklahoma City, OK—Metro Tech Conference Center, 1900 Springlake Dr.
3. Albuquerque, NM—Albuquerque Technical Vocational Institute, Jeannette Stromberg Hall, Auditorium C311, 2000 Coal S.E.
4. Phoenix, AZ—Phoenix Civic Plaza, 225 E. Adams St.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Committee Management Officer, Ovesight Board/RTC, 1777 F. Street, NW., Washington, DC 20232, 202/786-9675.

SUPPLEMENATRY INFORMATION: Section 501(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (the ACT), Public Law No. 101-73, 103 Stat. 183, 382-383, directed the Oversight Board to establish one national advisory board and six regional advisory boards.

Purpose: The advisory boards provide the Resolution Trust Corporation (RTC) with information and recommendations on the policies and programs for the sale of RTC-owned real property assets.

Agenda: A detailed agenda will be available at the meeting.

Discussions will center around the activities of that particular region as related to seller financing for RTC real estate assets, affordable housing, asset marketing, and utilization of the private sector. In addition, there will be briefings by the RTC on activity pertaining to that region and policy updates by the Oversight Board.

Statements: Interested persons may present data, information, or views in writing on the issues pending before the advisory board. Persons wishing to make oral statements are to notify the contact person 10 days before each meeting giving a brief statement on the nature of the remarks. Time permitting, oral comments will be limited to approximately five minutes.

All meetings are open to the public. Seating is available on a first come first served basis.

Dated: September 28, 1990.

Art Siddon,

Acting Vice President, Office of Public Affairs.

[FR Doc. 90-23395 Filed 10-2-90; 8:45 am]

BILLING CODE 2222-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-28475; International Series Release No. 157; File No. SR-AMEX-89-16]

Self-Regulatory Organizations; American Stock Exchange, Inc; Order Approving Proposed Rule Change Relating to the Listing and Trading of a Broad-Based Index Option Contract Based on the Japan Index

I. Introduction and Background

On June 28, 1989, the American Stock Exchange, Inc. ("AMEX" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] a proposed rule change to list for trading a new index option contract based on the Japan Index ("Japan Index" or "Index")—a broad-based index of Japanese stocks that are traded on the Tokyo Stock Exchange ("TKE").

The proposed rule change was noticed in Securities Exchange Act Release No. 27026 (July 12, 1989), 54 FR 30299.[3] One comment letter was received regarding the proposed rule change.[4]

II. Description of the Proposal

The AMEX proposes to list options based on the Japan Index, a price-weighted index[5] developed by the AMEX that is comprised of 210 Japanese stocks traded on the TKE. The AMEX proposes to trade standardized European-style options (exercisable only at expiration) based on the Index. Options on the Index will be governed by current Exchange rules applicable to the trading of index options.[6] These rules govern matters such as disclosure, account approval and suitability, position and exercise limits,[7] margin, and trading halts and suspensions.[8]

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] On September 8, 1989, the AMEX amended its proposal to among other things, provide for a modified price calculation formula for certain high-priced securities in the Index that will "down scale" the weight of these stocks in the Index. *See* Securities Exchange Act Release No. 27233 (September 8, 1989), 54 FR 38470. No comments were received on the proposed amendment. Subsequently, the Commission received two additional amendments to the proposal that were not noticed by the Commission because they were primarily technical in nature regarding the calculation and composition of the Index. On December 7, 1989, the AMEX filed Amendment No. 2 with the Commission to provide that the settlement value of the Index will be determined based on the closing prices of component securities in the TKE's afternoon trading session, rather than the TKE's morning trading session. On July 2, 1990, the AMEX filed Amendment No. 3 that, among other things, increases the number of stocks in the Index and amends the stock selection criteria. The notable changes in these amendments are described in more detail below.

[4] The Commission received a late comment letter from Nihon Keizai Shimbun, Inc. ("NKS"), the Japanese company that calculates the Nikkei Stock Average ("Nikkei"), arguing that the Commission should delay approval of the Index options until its alleged proprietary claims to the Japan Index are resolved. *See* letter from Susumu Kajita, Director, Databank Bureau, NKS, to Jonathan G. Katz, Secretary, Commission, dated September 19, 1990 ("NKS letter"). The Commission also received a response to the NKS letter from the AMEX. *See* letter from Gordon L. Nash, Senior Executive Vice President, AMEX, to Jonathan G. Katz, Secretary, Commission, dated September 21, 1990 ("AMEX letter").

[5] In a price-weighted index, an issue's weight in the index is based on its price per share rather than its total market capitalization (*i.e.*, price per share times the number of shares outstanding). In order to ensure that certain high-priced securities contained in the Index do not have an inordinately higher weight in comparison to other stocks in the Index, the AMEX has proposed to "down scale" the price of these securities. In particular, for those component securities with a par value greater than 50 yen, the AMEX will calculate the price of that stock, for Index purposes, to be equal to the last sale price of the stock divided by the ratio of the par value of the stock to a par value of 50. Currently, there are four securities in the Index that would be subject to this provision. Specifically, the price of Nippon Telegraph & Telephone would be divided by 1000 while the prices of Tokyo Electric Power, Kansai Electric Power and Toho Co. would be divided by ten.

[6] *See* Amex Rules 900C-980C.

[7] Pursuant to Exchange Rule 904C(b), the Exchange proposes to establish a position limit of 25,000 contracts on the same side of the market for the Index contracts, provided that no more than 15,000 contracts will be permitted in the series of the nearest expiration month.

[8] *See* Securities Exchange Act Release No. 26198 (October 19, 1988), 53 FR 41637, that provides for a one hour trading halt in all index options traded on the AMEX if the Dow Jones Industrial Average ("DJIA") declines 250 points from the previous day's

Continued

The TKE-traded securities selected by the AMEX for the Index must meet eligibility standards with respect to market value, trading activity, and price level. First, in order for a security to be included in the Index, its minimum market value in Japanese yen, as measured by the product of the security's last sale price and total shares outstanding, must be 20 billion yen (approximately 129 million dollars as of June 25, 1990) for the preceding 20 business days before inclusion in the Index.

Second, any security selected for inclusion in the Index must have traded an average of more than 100,000 shares per month over the previous six months.[9] In addition, at least 75% of the component securities must have average monthly trading volumes of not less than 750,000 shares per month over the previous six month period.

Third, the Exchange has designed share price eligibility standards to ensure that no single issue will have a disproportionate impact on the Index. Specifically, the AMEX proposes that the yen price per share for each component security in the Index during the preceding 20 business days before inclusion or continuation in the Index must be less than 10 times the average price of stocks in the Index. The Exchange proposal also provides that no component security will have an Index weight in excess of 7.5%. In addition, as discussed above, the Exchange has proposed to "down scale" the price of certain highpriced securities so that they are eligible for inclusion and do not have a disproportionately large weight in the Index. In order to ensure that no industry group within the Japanese market dominates the Index, when selecting component Japanese securities for the Index, the AMEX will give consideration to the selection of securities that are representative of the various components of the Japanese stock market. The 210 stocks that currently comprise the Index represent 35 different industry groups and the three largest industry groups, electric equipment, chemicals, and textiles only comprise 10.42%, 8.01%, and 6.3% of the Index, respectively.

Moreover, the AMEX reserves the right in maintaining the Index to increase or decrease the number of stocks included in the Index by as many as 25 stocks in order to maintain a balanced industry representation of the Japanese market.[10] Furthermore, the AMEX will administer the Index, applying offsetting divisor adjustments to the Index in light of stock splits, stock repurchases or other corporate actions that would otherwise cause a discontinuity in the Index values. In addition, the AMEX will review the performance of each security at the end of each calendar quarter and, if any should fail to meet the eligibility standards, the AMEX will consider the selection of suitable replacements.

The Exchange, for purposes of calculating the Index, will use last sale price information of the component securities from the TKE. However, in the event that on any day a component security does not trade on the TKE but does trade on the Osaka Stock Exchange ("OSE"), the last sale price on the OSE will be used for calculating the Index trading value to be published that day. The Index will be calculated and disseminated once a day before the opening of U.S. trading. The information will be disseminated to vendors through the Options Price Reporting Authority ("OPRA") system. A benchmark Japan Index value of 280.00 was established for the Index on April 2, 1990. The closing Index value on September 18, 1990, based on the closing price of the TKE on that day, was 238.90. The multiplier for the Index is 100.[11]

For option trading purposes, the daily value of the Index will be determined based on the closing prices of component securities in the latest trading session held that calendar day on the TKE[12] (normally the afternoon trading session except if that session has been canceled due to a holiday or other reason). The options will expire on the Saturday following the third Friday of the expiration month. The last trading day in an options series normally will be the second to last business day preceding the Saturday following the third Friday of the expiration month (normally a Thursday), except in the event of a holiday.[13]

For settlement purposes, the settlement value of the Index also will be determined based on the closing TKE prices of component securities in the afternoon trading session on the trading day in Japan following the last day of trading in the expiring contracts. Thus, normally, because trading in expiring options contracts will cease on a Thursday at 4:15 e.s.t., the Index settlement value will be determined at the close of the Friday afternoon TKE trading session, that is, at 1 a.m., e.s.t., on Friday morning.

The Index will be valued in U.S. dollars even though the Index is comprised entirely of Japanese stocks. The Exchange will assign a value of one U.S. dollar to each 100 decimal points of the Index. Thus, as the Index value reflects changes in the yen prices of the component stocks, the option premium values change in U.S. dollars, without regard to fluctuations in the yen/dollar exchange rate. This index valuation method is designed for investors that primarily are concerned with changes in the yen price levels of the Japanese market and not in the combined effect of price movements in the Japanese stock market and changes in the yen/dollar exchange rate.[14]

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closing value and a two hour trading halt if the DJIA declines 400 points from the previous day's closing value. Additionally, AMEX Rule 918C permits the Exchange to halt or suspend trading in options on a stock index if, among other reasons, unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

[9] The Exchange proposes that, for those stocks included in the Index whose price is down-scaled *see* note 5, *supra*) the trading volumes for such stocks conversely should be up-scaled for the purpose of compliance with the trading volume criterion because these securities may have a low average monthly trading volume because their price per share is inordinately higher than the other stocks in the Index

[10] The Commission believes that a significant increase or decrease in the numbaer of stocks currently included in the Index, apart from this possible change by the Exchange of 25 stocks, would represent a material change to the terms of the AMEX contract and require a re-examination of the contract by the Commission.

[11] An index multiplier is a number which determines the total dollar value of each point of the underlying index. A multiplier of 100 means that for each point by which an option is in-the-money, there is a $100 increase in intrinsic value.

[12] On normal business weekdays, the TKE holds two two-hour trading sessions daily. The morning trading session runs from 9:00 a.m. to 11:00 a.m. Tokyo time, and the afternoon trading session runs from 1:00 p.m. to 3:00 p.m. Tokyo time. In terms of e.s.t., the Friday TKE morning session runs from 7:00 p.m. to 9:00 p.m. e.s.t. on Thursday night, and the Friday TKE afternoon trading session runs from 11:00 p.m. to 1:00 a.m. e.s.t. later that Thursday night. (Three Saturdays each month the TKE also holds a morning trading session.)

[13] The AMEX proposal includes special expiration schedules to account for holidays in the Japanese or U.S. exchanges. Specifically, the Exchange proposes that in the event that the TKE is closed on the third calendar Friday of a contract month due to a Japanese holiday or other reason, the last trading day for expiring Index options contracts will be the Exchange business day in New York which precedes the last TKE trading day prior to the third calendar Friday of the month. Likewise, the Exchange proposes that in the event that the Thursday preceding expiration Friday is not an AMEX business day, the preceding business day will be the last trading day for expiring Index options.

[14] Unlike index options on the U.S. market, the Index options, by themselves, will not provide a perfect hedge to a corresponding portfolio of Japanese stock because movements in the dollar/yen exchange rate also affect the value of the portfolio. Investors could utilize positions in exchange rate products (*e.g.*, currency futures, forwards, and options), however, in conjunction with investments in Idex options if their investment objective is to capture both Japanese stock market and dollar/yen currency movements.

Moreover, the proposed valuation method permits the options premiums to be quoted in U.S. dollars and the trading accounts to be denominated in U.S. dollars. Accordingly, all Exchange, Options Clearing Corporation and clearing member systems will be able to accommodate the trading, clearance and settlement of the Index options without alteration.

III. Discussion

The Index is the first stock index option contract traded on a U.S. exchange that is comprised exclusively of Japanese stocks. Options contracts based on an international stock market index and index warrants based on the Japanese stock market, however, already are listed and traded on the AMEX.[15] The Commission believes that the availability of options on the Index is consistent with section 6(b)(5) of the Act in that it should help to remove impediments to a free and open securities market because the Index option will provide investors with a means to hedge exposure to market or systematic risk associated with Japanese stock investments.[16] In this regard, the trading of listed options on an index of Japanese stocks will provide investors with a valuable hedging vehicle that should reflect accurately the overall movement of the Japanese stock market. The Commission also believes that the Index option will provide investors a means by which to make investment decisions in the Japanese equity market, thus allowing them to establish positions or increase existing positions in Japanese stocks in a cost effective manner. Finally, the Commission noted that investors could pursue a strategy designed to supplement their dividend income by writing options on the Index.

The trading of options on the Index raises several concerns, namely issues related to index design, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the AMEX adequately has addressed these concerns.

A. Index Design and Structure

The broad diversification, large capitalization, and liquid markets of the Index's component stocks significantly minimize the potential for manipulation of the Index. The ten most highly weighted stocks in the Index account for approximately 15.79% of the Index's value. Further, the index component stocks are highly capitalized as the median and mean capitalization for the 210 firms (as of September 13, 1990) was 419,422 million yen (3.04 billion dollars (assuming an exchange rate of 138 yen to the dollar)) and 947,484 million yen (6.86 billion dollars), respectively. Moreover, all issues are actively traded on the TKE with the median and mean monthly trading volume for the 210 issues of 3,247,000 and 4,586,348 shares, respectively.[17] Thus, the Index is clearly a broad-based index which should not be overly susceptible to manipulative activity. Moreover, the Index will be widely and publicly disseminated via OPRA.[18]

B. Surveillance

The AMEX has developed a special surveillance program for Index options, and the Commission has found the program to be adequate. All the procedures which currently apply to the AMEX's existing stock index options surveillance program will apply to the surveillance of trading in Japan Index options. Second, the AMEX will utilize the surveillance procedures that have been in place since the beginning of 1990 for the trading of warrants based on the Nikkei, a stock index that includes substantially all of the Index stocks.

As a general matter, before approving a new derivative product, the Commission requires that a surveillance sharing agreement be in place between the exchange that proposes to trade the derivative product and the exchange where the underlying shares are traded. The Commission believes that such an agreement is a valuable component of any program aimed at detecting and deterring potential intermarket manipulation.

The AMEX concluded a surveillance sharing agreement with the TKE in 1988 which obligates the parties to use their best efforts to compile and transmit information which includes, but is not limited to, transactions on the exchanges, price quotations, clearing data, and the identity of persons holding large positions in selected AMEX derivative products or their underlying stocks. The surveillance agreement initially only covered the AMEX's IMI options, but the agreement was amended in 1989 to cover the AMEX's Nikkei warrants.[19] The TKE also has executed substantially identical agreements with the Chicago Board of Trade ("CBOT") to cover the trading of futures on the Tokyo Stock Price Index ("TOPIX"),[20] the Chicago Mercantile Exchange ("CME") to cover the trading of Nikkei futures, and the Chicago Board Options Exchange, Inc. ("CBOE") to cover the trading of options on the TOPIX.[21]

While the AMEX requested the TKE to expand its surveillance sharing agreement to include options on the Japan Index, the TKE initially deferred executing the expanded agreement and instead requested that the AMEX delay its planned trading of Index options because of concerns in Japan over the apparent impact of trading in derivation instruments on the cash market in Japan. Subsequently, the AMEX and the TKE expanded their surveillance sharing agreement to cover Japan Index options.[22] The Commission has found

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[15] The Commission has approved an AMEX proposal to list and trade a broad-based index of international stocks, the International Market Index ("IMI") that includes a substantial Japanese component. *See* Securities Exchange Act Release No. 26653 (March 21, 1989), 54 FR 12705. The IMI is a capitalization-weighted index of 50 foreign stocks, including eleven Japanese stocks that comprise approximately 45.6% of the weighting of the IMI. These 11 stocks also are included in the Index, but the aggregate price weight of such issues is only 4.35% of the Index. Additionally, the Commission has approved the listing and trading by the AMEX of index warrants based on a broad-based index of the Japanese stock market, the Nikkei stock average ("Nikkei"). *See* Securities Exchange Act Release No. 26585 (December 22, 1989), 55 FR 376. The Nikkei is an internationally recognized, price-weighted index comprised of 225 actively-traded stocks on the TKE. The Nikkei Index is calculated and managed by Nihon Keizai Shimbun, Inc. of Japan.

[16] Pursuant to section 6(b)(5) of the Act the Commission must predicate approval of any new option proposal upon a finding that the introduction of such option is in the public interest. Such a finding would be difficult with respect to an option product that served no hedging or other economic function, because any benefits that might be derived by market participants would likely be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[17] The Index criteria requires that at least 75% of the Index's component stocks must have a monthly trading volume in excess of 750,000 shares. In fact, during the period October to March 1990, only 8 of the 210 issues had a monthly trading volume less than 750,000 shares.

[18] In this respect the Index is identical to other indexes that are calculated and disseminated by an exchange, such as the Major Market Index.

[19] Agreement between the AMEX and the TKE to Share Market Surveillance Information ("AMEX/TKE Agreement"), dated November 4, 1988, and Amendment No. 1 to the AMEX/TKE Agreement, dated December 8, 1989.

[20] The TOPIX is a broad-based, capitalization-weighted index comprised of all the common stocks listed on the First Section of the TKE.

[21] The CME commenced trading in Nikkei futures on September 25, 1990 and the CBOT plans to start trading TOPIX futures on September 27, 1990.

[22] While the Commission believes that the consummation of a surveillance sharing agreement between the AMEX and TKE provides the optimal vehicle for information requests concerning Japan Index options, the Commission believes that the Memorandum of Understanding ("MOU") between the Commission and the Japanese Ministry of Finance ("MOF") also may be used by these agencies for the exchange of surveillance or investigatory information relating to trading in Index options.

the expanded agreement to be satisfactory.[23]

C. Market Impact

The Commission believes that the listing and trading of Index options on the AMEX will not adversely impact the securities markets in the U.S. or Japan. First, as previously mentioned, existing AMEX stock index options rules and surveillance procedures will apply to option contracts based on the Index. Second, the Commission notes that the Index is broad-based and diversified and includes highly capitalized securities that generally are traded actively on the TKE. Moreover, at the present time, index options and index futures contracts based on other broad-based Japanese stock market indexes, the TOPIX and the Nikkei, are traded on Japanese securities and futures markets;[24] Nikkei futures are traded on Singapore and Chicago exchanges; numerous warrant and off-exchange options are traded world-wide on Japanese stock market indexes; and Nikkei warrants are traded on the AMEX. Accordingly, because derivative index instruments already are trading in Japanese and other world markets and other Japanese-based instruments will soon be trading in the U.S., the Commission believes that the introduction of Index options by the AMEX should not have a significant effect on the underlying Japanese securities markets.

D. Proprietary Concerns

The NKS letter raises concern surrounding the similarities between the Japan Index and the NKS's own Nikkei Index.[25] Specifically, the letter states that "the [AMEX's] unauthorized use of an index, regardless of its name, which demonstrates striking similarities to the Nikkei Average, is likely to cause undesirable confusion and potential disruption in the securities market, and to undermine NKS's rights with respect to its internationally recognized and well-established Nikkei Average."[26] Accordingly, NKS requests that the Commission delay consideration of approval of Japan Index options until this potential conflict is resolved and, in the alternative, that any Commission order approving Index options be made "expressly without prejudice to any rights NKS may have with respect to the validity of any claims raised with respect to [the AMEX's] option."[27]

In response to the NKS letter, the AMEX stated that it strongly disagreed with NKS's assertion that the use of the Japan Index, which is a proprietary index developed solely by the Amex, is likely to cause confusion and market disruption or undermine NKS's rights with respect to the Nikkei.[28] In support of its position, the AMEX raised several distinctions between the Japan Index and the Nikkei. First, with regard to the composition of the Index, the AMEX points out that there are 15 fewer stocks in the Japan Index than in the Nikkei and that there are several stocks included in the Japan Index that are not in the Nikkei and vice versa.[29] Second, the Japan Index is expressed in terms of U.S. dollars calculated at a fixed ratio of 100 yen to the dollar, while the Nikkei is expressed in yen. Third, the level of the Japan Index is approximately 1/100th the value of the Nikkei, making it extremely unlikely that investors would be confused by the two indexes. Finally, the AMEX points out that the two indexes have different industry weightings; procedures for settlement value calculation; frequency of index calculation (once-a-day vs. real-time); divisors; and stock inclusion and replacement standards.

In addition, the Amex argues that it knows of "no legal theory which enables NKS to prohibit another party from using the prices of a particular stock or group of stocks traded on the [TKE] for purposes of measuring the overall performance of that market, merely because NKS has used such prices in its index."[30] Moreover, the AMEX asserts that by the nature of what the Japan Index and the Nikkei are intended to do, that is, measure the performance of the TKE, it is inevitable that the leading stocks on the TKE would be included in both indexes. Accordingly, the AMEX contends that neither will there be investor confusion stemming from the trading of Japan Index options nor will NKS's rights to the NIKKEI be undermined.

The NKS letter was submitted well after the public comment period ended.[31] Nevertheless, after examining NKS's letter, the Commission has concluded that it would be inappropriate to forestall approval of Japan Index options because a third party may raise a proprietary claim. Specifically, to the extent that NKS's argument raises a claim of misappropriation or infringement of a protected property right, the Commission believes it is inappropriate for the Commission to attempt to resolve these issues in a proceeding involving the approval of a security to be traded in a particular marketplace. To take such delaying action anytime a third party claim is asserted would stifle new product innovation and development. This is particularly true where, as here, the AMEX has demonstrated several aspects of its Japan Index that differentiate it from the Nikkei Index. Congress has enacted an elaborate statutory framework for the establishment, preservation, and protection of intellectual property rights and established specific federal agencies to administer these laws. Separate state causes of action also may be available to NKS, as well as possible recourse to Japanese laws. The plain language of the U.S. securities laws does not suggest that Congress intended that the Commission attempt, in the context of an approval proceeding for a securities product, to resolve intellectual property right claims that can be pursued elsewhere. Accordingly, the NKS assertions do not form a basis for the Commission to disapprove or delay the AMEX proposal.[32]

IV. Conclusion

For the reasons set forth above, the Commission finds that the proposed rule change is consistent with the requirement of the Act and the rules and regulations thereunder applicable to a

[23] The Commission notes that, pursuant to the agreement, certain components of the Index, specifications of the option contract, or trading rules pertaining to Index options may be changed in the future. Some or all of these changes may require Commission approval under section 19(b) of the Act.

[24] Index option contracts and futures contracts on the TOPIX are traded on the TKE and the Tokyo Futures Exchange, respectively. Index options and futures contracts based on the Nikkei are traded on the OSE.

[25] The NKS letter states that the Nikkei consists of 225 stocks traded on the TKE while the Japan Index consists of 210 stocks traded on the TKE. The letter also states that "[a] comparison of the stocks for the Japan Index and the Nikkei Average indicates that the Japan Index uses most, and potentially all, of the stocks used in computing the Nikkei Average." NKS letter, *supra* note 4, at 1.

[26] *Id.*

[27] *Id.* at 2.

[28] AMEX letter, *supra* note 4, at 1.

[29] In particular, 20 of the 225 stocks in the Nikkei are not in the Japan Index (9.5% of the number of stocks in the Index) and five of the 210 stocks in the Index are not in the Nikkei.

[30] AMEX letter, *supra* note 4, at 2.

[31] Specifically, the comment period for the proposal as originally filed expired on August 9, 1989, and the comment period for amendments to the proposal expired on October 8, 1989.

[32] The Commission is not required by the Act and has not made a legal determination of proprietary claims flowing from the AMEX's use of the Japan Index. This is not to say, however, that the Commission might not separately have a federal interest in the outcome of any proceeding challenging a new product or be willing to express a view regarding such a proceeding had NKS filed its comment letter in a timely manner or in the event a subsequent action provides the Commission adequate opportunity to address these matter.

national securities exchange, and, in particular, the requirements of section 6(b)(5) and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[33] that the proposed rule change (SR-AMEX-89-16) be, and hereby is, approved.

Dated: September 27, 1990.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-23324 Filed 10-2-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28479; File No. SR-CBOE-90-26]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Implementation of Registration Fees for Registered Representatives

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 7, 1990, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to implement a registration fee as described in the text of proposed Exchange Rule 2.22(b). Additions are italicized. Deletions are bracketed.

Rule 2.22 Other Fees or Charges.

No change.

(a) No Change. Proposed in SR-CBOE-90-25.

(b) Registration Fees. Member organizations shall pay application, maintenance and transfer registration fees for their Series 7 qualified Registered Representatives ("RR") as described in Rule 9.3 and Registered Options Principals ("ROP") as described in Rule 9.2. The fees are listed below:

(i) for each new RR or ROP applicant—$15.00.

(ii) for the maintenance of each RR or ROP Registration—$15.00/yr.

(iii) for an RR or ROP who transfers from another organization—$15.00.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose.

The Exchange proposes (1) to implement a new minimal fee which will be paid by member organizations to maintain RR and ROP registration; and (2) to reduce existing fees for applying for or transferring a ROP or RR registration. The new fee will be $15.00 per year to maintain a RR or ROP registration. It will be used to offset the costs associated with providing routine examinations of CBOE member organizations and their offices and the reviewing of RR and ROP activities. In addition to implementing a new annual fee, the Exchange also proposes to reduce the existing fee for transferring ROPs and RRs from $25.00 to $15.00 and to reduce the existing fee for ROP and RR registration from $50.00 to $15.00 per applicant. Thus the proposed rule change provides for the following fees: (1) $15.00 per year to maintain a ROP or RR registration; (2) $15.00 per applicant for a new RR or ROP; and (3) $15.00 for RR or ROP transfer. The CBOE represents that these fees are similar to ones imposed by the New York Stock Exchange ("NYSE"), the National Association of Securities Dealers and the American Stock Exchange for registered representatives. For example, the NYSE charges the following fees for RRs and ROPs: (1) $46.00 per year to maintain a ROP or RR registration; (2) $65.00 per applicant for a new RR or ROP; and (3) $43.000 for a RR or ROP transfer.

(2) Basis.

The CBOE believes that the proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(4) in particular in that the proposal provides for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and issuers and other persons using its facilities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 under the Act. At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 24, 1990.

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[33] 15 U.S.C. 78s(b)(2) (1982).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated September 27, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-23379 Filed 10-2-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28472; File No. SR-DTC-90-11]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Depository Trust Company Relating to a Procedure For Disposal of Worthless Warrants, Rights and Put Options

September 26, 1990.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 6, 1990, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (SR-DTC-90-11) as described in Items I, II, and III below, which items have been prepared by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change establishes a procedure for disposal of worthless warrants, rights, and put options. The proposed procedure is as follows:

DTC will contact the issuer or transfer agent after the expiration date of the warrant, right, or put option to verify that it has in fact expired and that the certificates representing such rights are worthless.

DTC will then obtain written confirmation from the issuer or transfer agent of said expiration and that the certificates representing such rights are worthless.

DTC will then notify Participants: (a) That, per the issuer or transfer agent, said warrants, rights or put options have expired; (b) that they will be deleted from Participants' positions on or after the thirtieth day following the date of the notice; and (c) that DTC may then destroy the physical certificates.

On or after the date that is thirty days after the notice, DTC will delete said warrants, rights, or put options from Participants' positions and, at DTC's discretion, destroy the certificates.

DTC will retain copies of all destroyed rights, warrants, and put options for a period of seven years.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DTC intends to dispose of worthless warrants, rights, and put options. Currently, DTC has thousands of certificates in its vaults representing hunderds of expired warrants, rights, and put options. The purpose of the proposed rule change is to eliminate the expenses that attend continued safekeeping of such worthless securities (*e.g.*, vault space, audit requirements, etc.) and to clarify the procedure for disposal of such securities.

The prosposed rule change is consistent with the requirements of section 17A(b)(3)(A) of the Act in that it promotes efficiencies in the clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

DTC has discussed the proposed rule change with the Securities Operations Division of the Securities Industry Association, which has orally expressed approval of the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period: (1) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which DTC consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements, with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR-DTC-90-11 and should be submitted by October 24, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-23376 Filed 10-2-90; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Incorporated

September 27, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Allstate Municipal Income Opportunity Trust III Common Stock, $.01 Par Value (File No. 7-6244).

Donnelly Corportion: Class A Common Stock, $.01 Par Value (File No. 7-6245).

Henley International, Inc.: Common Stock, $.001 Par Value (File No. 7–6246).

H.W. Kaufman Financial Group, Inc.: Common Stock, $.0025 Par Value (File No. 7–6247).

Solomon, Inc.: Units of Beneficial Interest of Solomon Phibro Oil Trust, No Par Value (File No. 7–6248).

Genentech, Inc.: Common Stock, $.02 Par Value (File No. 7–6249).

Wheelabrator Technologies, Inc.: Common Stock, $.01 Par Value (File No. 7–6250).

Cadence Design Systems, Inc.: Common Stock, $.01 Par Value (File No. 7–6251).

Diagnostek, Inc.: Common Stock, $.01 Par Value (File No. 7–6252).

Florida Public Utilities Company: Common Stock, $1.50 Par Value (File No. 7–6253).

Mid-America Bancorp: Common Stock, No par Value (File No. 7–6254).

Emerging Mexico Fund, Inc.: Common Stock, $.10 Par Value (File No. 7–6255).

National Media Corp.: Common Stock, $.01 Par Value (File No. 7–6256).

Pamida Holdings Corp.: Common Stock, $.01 Par Value (File No. 7–6257).

C&S/Sovran Corporation: Common Stock, $1.00 Par Value (File No. 7–6258).

The Germany Fund: Common Stock, $.001 Par Value (File No. 7–6259).

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 19, 1990, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authroity.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–23325 Filed 10–2–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–28473; File No. S7–9–90]

Self-Regulatory Organizations; Order Granting Temporary Exemption From Registration as a Securities Information Processor to National Association of Securities Dealers for Market Services, Inc.

On March 28, 1990, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission" or "SEC), pursuant to section 11A(b)(2) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 11Ab2–1 thereunder,[2] an application for registration of its subsidiary, Market Services, Inc. ("MSI"), as an "exclusive securities information processor"[3] for the operation of the PORTAL Market.[4] Section 11A(b)(1) of the Act provides for the registration with the Commission of those securities information processors that perform the function of an exclusive securities information processor on behalf of a national securities exchange or registered securities association. On April 27, 1990, the Commission provided notice of the application and temporary exempted MSI from registration as a securities information processor through July 26, 1990.[5] On July 30, 1990 the Commission extended the exemption through September 24, 1990.[6] This order grants the NASD a further exemption until October 25, 1990.[7] To date, the Commission has received no comments concerning this application.

The Commission finds that an extension until October 25, 1990, of the order granting MSI a temporary exemption from registration is appropriate and consistent with the public interest, the protection of investors and the purposes of section 11A of the Act provided, however, that all the term and conditions of the April 27, 1990, order shall continue in full effect during the term of this exemption.

It is Therefore Ordered, pursuant to section 11A(b)(1) of the Act, that the NASD is hereby granted a temporary exemption from the section 11A(b)(1) requirement that it register as a securities information processor until October 25, 1990. It is further ordered that MSI, during the term of the exemption, is subject to all the terms and conditions of Securities Exchange Act Release No. 27957, April 27, 1990, which initially granted the NASD a temporary exemption from registering MSI.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 26, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–23380 Filed 10–2–90; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78k–1(b)(2) (1987).

[2] *See* letter to Jonathan G. Katz, Secretary, SEC, from Frank J. Wilson, Executive Vice-President and General Counsel, NASD, dated March 28, 1990.

[3] MSI is a securities information processor within the definition of section 3(a)(22)(A) of the Act and an exclusive processor within the definition of section 3(a)(22)(B) of the Act.

[4] The PORTAL Market is a screen-based system for primary placements and secondary trading on Rule 144A securities. The Commission, in separate release, adopted Rule 144A under the Securities Act of 1933 and approved an NASD proposed rule change to implement the PORTAL Market under the Exchange Act. *See* Securities Act Release No. 6862, April 23, 1990; and Securities Exchange Act Release No. 27956, April 27, 1990.

[5] *See* Securities Exchange Act Release No. 27957 (April 27, 1990).

[6] *See* Securities Exchange Act Release No. 28283, July 30, 1990.

[7] The NASD consented by letter, dated July 27, 1990, to a 90-day extension for Commission action. *See* letter to Christine A. Sakach, Branch Chief, Division of Market Regulation, SEC, from John Pilcher, attorney, NASD, dated July 27, 1990.

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

September 27, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Alltel Corporation: Common Stock, $1 Par Value (File No. 7–6237).

Ameriscribe Corporation: Common Stock, $1 Par Value (File No. 7–6238).

Great American Bank, FSB: Common Stock, $1 Par Value (File No. 7–6239).

Playboy Enterprises, Inc.: Class A Common Stock, $0.01 Par Value (File No. 7–6240).

Playboy Enterprises, Inc: Class B Common Stock, $0.01 Par Value (File No. 7–6241).

Tacoma Boatbuilding Company: Common Stock, $0.01 Par Value (File No. 7–6242).

Unocal Exploration Corporation: Common Stock, $.10 Par Value (File No. 7–6243).

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 19, 1990,

written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-23326 Filed 10-2-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-17762; 812-7563]

Axe-Houghton Fund B, Inc., et al.; Notice of Application

September 27, 1990.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Axe-Houghton Fund B, Inc. ("Fund B"), Axe-Houghton Income Fund, Inc. ("Income Fund"), Axe-Houghton Money Market Fund, Inc. ("Money Market Fund"), and Axe-Houghton Stock Fund, Inc. ("Stock Fund") (collectively, the "Acquired Funds"); Axe-Houghton Fund B ("New Fund B"), Axe-Houghton Growth Fund ("New Growth Fund"), and Axe-Houghton Income Fund ("New Income Fund"), each a series of Axe-Houghton Fund, Inc. (the "New Axe Funds"); USF&G Cash Reserve Fund ("New Cash Fund"), a new series of USF&G Money Market Funds, Inc. (the "New Money Market Funds"); and USF&G Financial Services Corporation ("USF&G Financial Services").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 17(b) of the 1940 Act from section 17(a) thereof.

SUMMARY OF APPLICATION: Applicants seek an order under section 17(b) of the 1940 Act exempting them from the provisions of sections 17(a) of the 1940 Act to permit New Fund B, New Growth Fund, New Income Fund, and New Cash Fund to acquire substantially all the assets of Fund B, Stock Fund, Income Fund, and Money Market Fund, respectively, in exchange for shares of each of the corresponding Acquired Fund.

FILING DATE: The application was filed on July 20, 1990, and amended on September 27, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 24, 1990, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of the date of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants: Acquired Funds, 400 Benedict Avenue, Tarrytown, New York 10591; New Axe Funds and New Money Market Funds, 275 Commerce Drive, Fort Washington, Pennsylvania 19034; and USF&G Financial Services, 100 Light Street, Baltimore, Maryland 21202.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272-3022, or Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. The New Axe Funds and the New Money Market Funds (the "New Series Companies") are Maryland corporations registered under the 1940 Act as open-end, management investment companies. USF&G Review Management Corp. ("Review Management") will serve as manager and administrator to the New Series Companies. Axe-Houghton Management, Inc. ("Axe-Houghton") will be the investment adviser of New Fund B, New Growth Fund, and New Income Fund, while Chancellor Capital Management, Inc. ("Chancellor") will be the investment adviser of New Cash Fund. USF&G Investment Services, Inc. ("USF&G Investment Services") will be the principal underwriter and distributor of New Fund B, New Growth Fund, New Income Fund, and New Cash Fund (together, the "Acquiring Funds"). Review Management, Axe-Houghton, Chancellor, and USF&G Investment Services are wholly-owned subsidiaries of USF&G Financial Services, a wholly-owned subsidiary of USF&G Corporation.

2. Each of the Acquired Funds is a Maryland corporation registered as an open-end, management investment company. Axe-Houghton serves as investment adviser and administrator to each of the Acquired Funds. At September 14, 1990, USF&G Corporation and its affiliates, including employee benefit plans, owned 7.91% of Fund B, 11.4% of the Income Fund, 88.94% of the Money Market Fund, and 15.31% of the Stock Fund.

3. As a result of these relationships, Review Management, Axe-Houghton, Chancellor, and USF&G Investment Services are under the common control of USF&G Financial Services and, ultimately, USF&G Corporation. In addition, USF&G Corporation and its affiliates have a 5% or greater ownership interest in each of the Acquired Funds and, prior to the reorganization, will own all of the outstanding shares of each of the New Series Companies as a result of the initial capitalization of such companies.

4. Subject to shareholder approval by at least a majority of the outstanding voting securities of each Acquired Fund and receipt of an opinion of counsel regarding certain tax matters, each Acquiring Fund proposes to acquire substantially all of the assets and liabilities of the corresponding Acquired Fund in exchange for shares of such Acquiring Fund. Thus, New Fund B would acquire the assets of Fund B, New Growth Fund would acquire the assets fo Stock Fund, New Income Fund would acquire the assets of Income Fund, and New Cash Fund would acquire the assets of Money Market Fund, in exchange for each of the shares of the respective Acquiring Fund. The value of an Acquired Fund's assets will be the value of such assets computed as of the close of business of the New York Stock Exchange on the closing date, and the net asset value of a share of an Acquiring Fund will be the net asset value per share computed as of the close of business of the New York Stock Exchange on the closing date. The number of shares to be issued by an Acquiring Fund in connection with the acquisition of assets will be determined by dividing the value of the assets of the Acquired Fund by the per share net asset value of the Acquiring Fund

immediately prior to the reorganization. On or before the closing date, each Acquired Fund will seek to discharge all of its known liabilities and obligations. Any liabilities and obligations not discharged by an Acquired Fund will be assumed by the corresponding Acquiring Fund. However, USF&G Investment Services will pay all expenses incurred by the Acquired and Acquiring Funds in connection with the reorganizations.

5. As soon as practicable after the closing date, each Acquired Fund will liquidate and distribute *pro rata* to its respective shareholders of record as of the close of business on the closing date the full and fractional shares of the corresponding Acquiring Fund received in the transfer of assets. An Acquired Fund will accomplish the liquidation and dissolution by transferring the Acquiring Fund shares credited to Acquired Fund's account on the books of the New Series Company to accounts on the books of such New Series Company in the names of the Acquired Fund's shareholders. Simultaneously, all issued and outstanding shares of the Acquired Funds will be cancelled.

6. At a meeting held on July 11, 1990, each Acquired Fund's board of directors approved the proposed reorganization in principle and authorized the filing of preliminary proxy materials of the Acquired Fund. These proxy materials were filed by the New Series Companies with the SEC on July 16, 1990 in combined proxy and registration statements. At another meeting on September 13, 1990, each board of directors gave its final approval to the reorganization and called a special meeting of shareholders to be held October 31, 1990, at which the shareholders will vote on the reorganization.

7. In approving the proposed transactions, the board of directors of each Acquired Fund considered, among other things, the following factors: (a) The commitment of USF&G Corporation and its subsidiaries to developing and marketing a USF&G family of funds, (b) the proposed management, advisory, and distribution arrangements of the Acquiring Funds, and (c) the continuity of the Acquired Funds' investment objectives and policies. The respective boards of directors believe that the reorganization will benefit shareholders of the Acquired Funds by providing a more extensive choice of portfolio investment objectives than now exists in the Axe-Houghton family of funds. Participation in the USF&G family of funds is expected to result in growth of assets through the marketing and distribution efforts of a new distributor under a revised sales structure.

Applicants' Legal Analysis

1. Certain Acquiring and Acquired Funds have investment advisers that are under common control, and, therefore, may be deemed to be "affiliated persons" of one another within the meaning of section 2(a)(3)(C) of the 1940 Act. Additionally, USF&G Corporation and its affiliates own 5% or more of each of the Acquired Funds, and, prior to the reorganization, will have a greater than 5 percent interest in the New Series Companies.

2. Rule 17a–8 provides that a merger, consolidation, or sale of substantially all of the assets involving registered investment companies which may be affiliated persons, or affiliated persons of affiliated persons, solely by reason of having a common investment adviser, common directors, and/or common officers shall be exempt from the provisions of section 17(a), provided that the board of directors of each affiliated investment company involved, including a majority of those directors that are not interested persons of any such investment company, determine (a) that participation in the transaction is in the best interest of that company, and (b) that the interests of the existing shareholders of that investment company will not be diluted as a result of its effecting the transaction. In addition, these findings and the basis upon which the findings are made must be recorded fully in the minute books of each investment company.

3. Applicants submit that the proposed transactions would be exempt from the provisions of section 17(a) by virtue of Rule 17a–8 under the 1940 Act but for the fact that the Acquired Funds and the Acquiring Funds are affiliated by a reason other than a common investment adviser, common directors, and/or common officers. Applicants submit that, consistent with section 17(b) of the 1940 Act, the terms of the proposed reorganizations are fair and reasonable and do not involve overreaching on the part of any person concerned, and that the proposed reorganizations are consistent with the purposes of the 1940 Act and the policies of the Acquired and Acquiring Funds as recited in the respective registration statements and reports filed under the 1940 Act.

Applicants' Conditions

Applicants agree to the following as express conditions to any order issued on this application:

1. The board of directors of each Acquired Fund and each New Series Company, including a majority of the directors who are not interested persons of the Acquired Fund or the New Series Company, shall have determined:

(a) That participating in the transaction is in the best interests of the Acquired Fund and the Acquiring Fund, and

(b) That the interests of existing shareholders of the Acquired Fund and the Acquiring Fund shall not be diluted as a result of the transaction.

2. Such fundings, and the bases upon which the fundings were made, shall have been recorded fully in the minute books of each Acquired Fund and New Series Company.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–23377 Filed 10–2–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–17761; File No. 812–7528]

Nationwide Life Insurance Co, et al.

September 27, 1990.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Nationwide Life Insurance Company ("Nationwide"), NACo Variable Account ("NACoVA), and Nationwide Financial Services, Inc. ("NFS").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(c) from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit the deduction of mortality and expense risk charges from the assets of the NACoVA pursuant to certain group variable annuity contracts.

FILING DATE: The application was filed on May 31, 1990 and amended on September 10, 1990.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the Commission no later than 5:30 p.m. on October 22, 1990. Request a hearing in writing, giving the nature of your interest, the reasons for the request and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also

send it to the Secretary of the Commission, along with proof of service by affidavit or, in the case of attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Applicants, One Nationwide Plaza, Columbus, Ohio 43216.

FOR FURTHER INFORMATION CONTACT: Wendy B. Finck, Staff Attorney, at (202) 272–3045, or Heidi Stam, Assistant Chief, at (202) 272–2060, Office of Insurance Products and Legal Compliance (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from either the Public Reference Branch in person or the Commission's commercial copier (800) 231–3282 (in Maryland, (301) 258–4300).

Applicants' Representations

1. Nationwide is a stock life insurance company incorporated under the laws of Ohio. The NACoVA, registered as a unit investment trust under the 1940 Act, was established to fund certain group variable annuity contracts (the "NACoVA Contracts") issued by Nationwide. NFS is the general distributor for the NACoVA Contracts. The NACoVA Contracts are designed for use in connection with a deferred compensation program (the "NACo Plan") sponsored by the National Association of Counties ("NACo"). NACoVA Contracts will be issued to NACo member counties participating in the NACo Plan to fund Internal Revenue Code section 457 plans for employees-participants ("Participants"). Purchase payments under the NACoVA Contracts will be allocated to the NACoVA and invested in shares of one or more mutual funds that are registered under the 1940 Act.

2. No sales charge is deducted from purchase payments made under the NACoVA Contracts. A contingent deferred sales charge ("CDSC") may be assessed against NACoVA Contract values upon termination of a NACoVA Contract by the owner, or withdrawal by the owner of all or part of the NACoVA Contract value. Nationwide will assess the CDSC against the amount withdrawn by deducting an amount from each Participant's account. The number of completed years in the NACoVA Contract to the time of termination or withdrawal determines the amount of the CDSC. The declining CDSC is established at a maximum of 4 percent of purchase payments.

3. An annual administrative charge is deducted from the NACoVA Contract value. This administrative charge is $12 per Participant per year for semi-annual statements, and $15 per Participant per year for quarterly statements. In addition, the NACoVA Contracts provide for the daily deduction of an actuarial risk fee, equal on an annual basis to 0.95 percent of the daily net asset value of the NACoVA. Of this 0.95 percent actuarial risk fee, 0.45 percent is designed to recover expenses for the administration of NACoVA. The 0.45 percent administration portion of the actuarial risk fee is deducted during both the "pay-in" accumulation phase and the "pay-out" annuity phase. Nationwide relies upon Rule 26a–1 under the 1940 Act to assess the administrative charge and the administration portion of the actuarial risk fee. In this regard, Nationwide will monitor the proceeds of the administrative charge and the administrative portion of the actuarial risk fee to ensure that they do not exceed expenses without profit. A confidential, proprietary actuarial demonstration supporting the administrative charge and the 0.45 percent administration portion of the actuarial risk fee is maintained by Nationwide for the Commission's review upon request.

4. Nationwide will designate a portion of its annual actuarial risk fee of 0.95 percent as compensation for assuming a mortality and expense risk under the NACoVA Contract. These components are 0.10 percent for the mortality risk and 0.40 percent for the expense risk (collectively, the "Mortality and Expense Risk Charge").

5. The expense risk Nationwide assumes is the guarantee that the annual administrative charge and the administrative portion of the actuarial risk fee will never be increased regardless of actual expenses incurred by Nationwide. The mortality risk Nationwide assumes is the annuity risk of guaranteeing to make monthly payments for the lifetime of retired Participants regardless of how long the retired Participants may live.

6. The Applicants represent that the Mortality and Expense Risk Charge is within the range of industry practice for comparable annuity products and is reasonable in relation to the risks assumed under the NACoVA Contracts. This representation is based upon Nationwide's analysis of publicly available information of other insurance companies of similar size and risk ratings offering similar products. Nationwide will maintain, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparable survey. Nationwide also maintains a supporting actuarial memorandum demonstrating the reasonableness of the Mortality and Expense Risk Charge, given the risks assumed under the NACoVA Contracts. This memorandum will be made available to the Commission upon request.

7. If the Mortality and Expense Risk Charge is insufficient to cover the actual cost of the mortality and expense risk, the loss will be borne by Nationwide; conversely, if the Mortality and Expense Risk Charge proves more than sufficient, the excess will be a profit to Nationwide. Should the charge result in a profit, it will become part of Nationwide's General Account surplus.

8. Nationwide advances sales commissions from surplus, since there is no front-end sales load. However, Nationwide intends to recover these commissions through the CDSC, when applicable. Should revenue from the CDSC prove insufficient to cover all sales expenses, Nationwide bears this short-fall in the General Account. To this extent, some portion of the profit, if any, from the Mortality and Expense Risk Charge could be used to make up unrecovered sales expenses. Nationwide represents that there is a reasonable likelihood that NACoVA's proposed distribution financing arrangement will benefit NACoVA and the owners of the NACoVA Contracts. The basis for this conclusion is set forth in a memorandum which will be made available to the Commission upon request.

9. The Applicants represent that investments of the NACoVA will be made only in investment companies which, if they should adopt any distribution financing plan under Rule 12b–1 under the 1940 Act, will be made up of a Board of Trustees or Directors, the majority of whom will be "disinterested" as defined by the 1940 Act. Such Board of Directors or Trustees must formulate and approve any such distribution plan.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–23378 Filed 10–2–90; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 1274]

United States Organization for the International Telegraph and Telephone Consultation Committee (CCITT), Study Group A; Meeting

The Department of State announces that Study Group A of the U.S. organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet during a two-day period beginning October 17, 1990 (10 am to 5 pm), in Room 1912, at the Department of State, 2201 C Street, NW. Washington, DC. Study Group A will continue its work on October 18, 1990, (10 am to 5pm) in Room 1517, also at the State Department.

Study Group A deals with international telecommunications policy and services.

The morning session on October 17 will include on its agenda issues related to the upcoming meetings of CCITT Study Groups I and III; discussion of a U.S. delegation to a joint meeting of CCITT/CCIR experts for a review of existing ISDN/satellite CCITT Recommendations; and a debrief of the recently concluded meetings of Working Parties of the Ad Hoc Group for CCITT Resolution No. 18. The afternoon session will deal only with the initial preparations for the January-February, 1991, meeting of the CCITT ad hoc group for Resolution 18.

The meeting of Study Group A on October 18 will relate specifically to the revisions of the CCITT Recommendations relating to leased circuits as covered by the D.1 to 3 and D.6 CCITT Recommendations.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and individual building passes are required for each attendee. Entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should advise the office of Mr. Earl S. Barbely, State Department, Washington, DC; telephone 202–647–2592. All attendees must use the C Street entrance to the building.

Dated: September 18, 1990.

Earl S. Barbely,

Director, Telecommunications and Information Standards, Chairman U.S. CCITT National Committee.

[FR Doc. 90–23306 Filed 10–2–90; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice 1275]

United States Organization for the International Telegraph and Telephone Consultative Committee (CCITT), Study Group C; Meeting

The Department of State announces that Study Group C of the U.S. organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet October 17, 1990, at 9:30 a.m., Newark Airport Sheraton Hotel, Newark, New Jersey.

The agenda will include discussions of issues relating to fiber optics within the activities of CCITT Study Group XV.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should advise the office of Mr. Dennis Thovson, Chairman of U.S. Study Group C, by calling Ellen Bradley, (201) 234–8624.

Dated: September 18, 1990.

Earl S. Barbely,

Director, Telecommunications and Information Standards, Chairman, U.S. CCITT National Committee.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 90–9–55; Docket 46928 Agreement CAB 1175 as amended]

Application of the International Air Transportation Association for Approval of Revised Traffic Conference Provisions Pursuant to Sections 412 and 414 of the Federal Aviation Act; Order Extending time

Issued by the Department of Transportation on the 28th day of September, 1990.

By Order 90–9–7, served September 7, 1990, the Department authorized the filing of comments in response to the application and pleadings filed in this docket. Such comments are due by October 17, 1990.

By letter dated September 18, 1990, the European Civil Aviation Conference requests that, in view of the importance of this matter, the deadline for comments be extended to the end of November 1990.

We feel that good cause has been shown for the requested extension, and we will grant it. Moreover, to provide potentially interested persons the maximum amount of time to take advantage of our action, we are granting the extension without waiting for answers to the request.

Accordingly, The date of filing responsive comments in Docket 46928 is extended to November 30, 1990.

A copy of this order will be published in the **Federal Register**.

Paul L. Gretch,

Director, Office of International Aviation.

[FR Doc. 90–23411 Filed 10–2–90; 8:45 am]

BILLING CODE 4910–62–M

[Order 90–9–51; Docket 47085]

Application of MESA Airlines, Inc. for Certificate Authority Under Subpart Q

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Mesa Airlines, Inc., fit and awarding it a certificate of public convenience and necessity to engage in domestic scheduled air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than October 12, 1990.

ADDRESSES: Objections and answers to objections should be filed in Docket 47085 and addressed to the Documentary Services Division [C–55, Room 4107], U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Delores King, Air Carrier Fitness Division [P–56, room 6401], U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 366–2343.

DATED: September 27, 1990.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 90–23348 Filed 10–2–90; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

Aircraft Registration; Treatment of Leases With an Option to Purchase; Legal Opinion

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of legal opinion.

SUMMARY: This notice of legal opinion is issued by the FAA Chief Counsel to advise interested parties of the treatment of leases with an option to purchase when they are submitted to the FAA Aircraft Registry to support aircraft registration.

ADDRESSES: Information concerning this opinion may be requested from the Assistant Chief Counsel for the Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125–4904.

FOR FURTHER INFORMATION CONTACT: Joseph R. Standell, Assistant Chief Counsel for the Aeronautical Center, address above, or by calling (405) 680–3296 or FTS 747–3296.

SUPPLEMENTARY INFORMATION: Section 501 of the Federal Aviation Act of 1958 (49 U.S.C. 1401) requires the Secretary of Transportation to register aircraft to its owner upon appropriate application. The Federal Aviation Regulations dealing with aircraft registration are found at 14 CFR part 47. A continually recurring question is whether a lessee under a lease with an option to purchase is considered the owner for purposes of registration. In 1938, the Civil Aeronautics Authority in "In the Matter of Charles P. O'Connor for Registration of Aircraft" (1 CAA 5), determined that the conditional vendee under a contract of conditional sale would be considered the owner for purposes of aircraft registration. Since that time, the agency has consistently considered that a lease with an option, where the option price is nominal, is equivalent to a conditional sale, and the lessee may be considered the owner. On March 26, 1981, the Acting Chief Counsel published an opinion in the **Federal Register** (46 FR 18877) stating that finance leases with certain specified characteristics were leases intended as security, and the lessee would be considered the owner for purposes of aircraft registration.

Now, certain members of the aviation financing community have asked for the opinion of the agency on leases with an option to purchase, where the option price is higher than "nominal," but in which there are economic compulsions on the lessee to exercise the option. This opinion addresses those concerns, and states the agency position with respect to such leases.

Accordingly, the FAA publishes its response to one of the inquiries, that of Bank of America, concerning the treatment of leases with substantial option prices, where there is an economic compulsion to exercise the option.

Issued in Washington, DC, on September 24, 1990.

Gregory S. Walden,

Chief Counsel.

Peter Leiter, Esquire
General Counsel, Bank of America National, Trust and Savings Association
555 California Street
San Francisco, CA 94104

Treatment of Leases With an Option to Purchase for Aircraft Registration

Dear Mr. Leiter: In accordance with your request of June 15, 1990, and that of many other counsel involved in aircraft financing, we have undertaken an extensive review of agency interpretations of what constitutes a lease intended as security, or a conditional sale, rather than a true lease where the option price is significantly in excess of a "nominal" amount. We have undertaken the review in light of significant changes to the Uniform Commercial Code, Article 2A and current practices of aircraft financing based on changes in multinational tax treatment. This letter is intended to state the circumstances in aircraft financial transactions where the lessee under a lease with an option to purchase will be considered the owner for aircraft registration.

The Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 *et seq.*), requires the Secretary of Transportation to issue a Certificate of Aircraft Registration for eligible aircraft to that applicant who is the owner (49 U.S.C. 1401(c)). The Federal Aviation Administration (FAA) Aircraft Registry determination of apparent ownership is conclusive of nationality, but not conclusive as to ownership in any proceeding in which the issue of ownership is in proceedings to determine it (49 U.S.C. 1401(f)). Accordingly, the FAA has made administrative determinations of apparent ownership for aircraft registration purposes, and continues to do so in increasingly complex aircraft financing transactions. For example, on March 26, 1981, the Acting Chief Counsel published a Legal Opinion in the **Federal Register** (46 FR 18877) that finance leases with certain specified characteristics would be treated as leases intended as security, and that the lessee under a finance lease would be treated as the owner for purposes of aircraft registration.

One of the most complex areas of the determination of ownership is the treatment of leases with an option to purchase. Historically, the agency has interpreted leases with an option to purchase as being equivalent to a conditional sale when the option price is 10 percent of the value of the aircraft (the "nominal consideration" or "bright line" test) at the time the lease is executed. Over the years, as the complexities of aircraft financing have increased, we have been able to determine ownership in other transactions involving the lessee's exercise of the option (such as defeased leases, where the lessee deposits with a neutral bank an amount which will be sufficient over the term of the lease to pay all rentals and the purchase option price, and the lessee is legally relieved of those obligations) when we were persuaded that the lessee was committed either to exercise the option or that we could make a determination that the transaction was one intended for security because there were factors indicating that the lessor was a financier only.

One of the most persuasive changes has been the multitude of commercial and tax law cases that have led to the promulgation of Article 2A of the Uniform Commercial Code (UCC), Leases, and most particularly the changes to section 1–201(37), the definition of "Security Interests." We recognize that this Article to date has been adopted in only six states (California, Minnesota, Nevada, Oklahoma, Oregon, and South Dakota), but the drafted language is highly persuasive, and there are many reported cases which hold substantially the same.

In this regard, you and other counsel have provided us with thorough studies of commercial and tax law cases in those situations where the option price clearly exceeds our 10 percent bright line, but where there are other economic factors which the courts considered persuasive in determining that the lessee is bound to exercise the option, and thus be treated as the owner as if the transaction were a sale, not a lease. Many cases declare that the substance of the transaction controls, not the form (i.e., characterization as a lease). *Swift Dodge* v. *Commissioner*, 692 F.2d 651 (9th Cir., 1982).

We are here primarily concerned with the situations where the contract states that if the lessee does not exercise the option to purchase at the end of the lease term, there are essentially two conceptual alternatives: One, where the lessee must nevertheless pay the full value of the aircraft (full payout); and Two, those situations where there is significant economic complusion on the lessee to exercise the option.

As to the first situation, many aircraft financing transactions submitted for our review contain a purchase option well above the 10 percent bright line, i.e., 35 to 45 percent of lessor's cost. (For purposes of this discussion, lessor's cost and the value of the aircraft are considered identical.) Under new UCC 1–201(37), and many of its predecessor cases, the mere presence of a purchase option does not make the transaction one intended for security, so we must look to the other factors to decide if it is a true lease, or one intended for security. A familiar provision as a mandatory alternative to the purchase option is the requirement that the lessee must nevertheless pay a sum substantially identical to the purchase option, variously called a Residual Value, Termination Fee, Refurbishing Fee, or even a Termination Rental Adjustment Compensation. The purpose of such a payment is to assure the lessor that it will get its money back from the transaction, nothing more or less, and is assured at the time of execution of the lease what its return will be.

Since either in the exercise of the option, or, if not exercised, upon payment of the residual value, the lessor is assured of getting its money back, there is every indication to us that the transaction is one intended for security. It has also been characterized as a conditional sale with a zero option, since there is a mandatory full payout. It is

therefore simply a financing scheme, and meets the test of the Federal Aviation Regulations, § 47.5(d), which states that "* * * 'owner' includes a buyer in possession, a bailee, or a lessee of an aircraft under a contract of conditional sale, and the assignee of that person." We are also satisfied that this allows the lease to be considered as "security" within the meaning of UCC 1-201(37), both new and old.

As to the second situation, there are several alternatives we have reviewed. These alternatives come into play if the option will not be exercised, and there is no provision for a full payout. These alternatives are best considered under what the cases and learned treaties call a "benefits and burdens" analysis; also called by various other names, such as the "no lessee in its right mind" test, or the "no lessee may prudently abandon" test. The benefits and burdens test essentially requires a determination that the economic incentives and disincentives of the alternatives to exercise the option mandate a purdent lessee to exercise the option. This is stated in the new UCC, section 1-201(37)(x) (second sentence) as: "Additional consideration (such as the option price) is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease if the option is not exercised." [parenthetical example is ours]

One of the alternatives (assuming no full payout) is a requirement that if the option is not exercised, the aircraft must be sold, with the lessee bearing the burden of loss if the proceeds do not equal the option price by paying the difference to the lessor, or, if the aircraft brings more at fair market value than the option price (or Residual Value, etc.) the excess over the option price goes to the *lessor.*

The risk of "downside" loss if the sale results in a loss is borne by the lessee, and if the proceeds exceed the option price, the lessee bears the risk of significant loss of any equity it may have acquired over the term of the lease, as well as the loss of profit on the aircraft at the sale when the "upside" goes to the lessor. These are not insignificant losses, and we are persuaded that the presence of such alternatives to exercise of the purchase option constitute one of the economic compulsions on the lessee to exercise the purchase option.

Other economic compulsion factors (assuming no full payout, and no mandatory sale of the aircraft) may be the requirement that the lessee return the aircraft to the lessor at the end of the term with a full refurbishing at a cost that would exceed the option price; or, the lessee must elect to purchase the aircraft one year before the end of the term, and if it elects not to purchase, may not use the aircraft and nevertheless pay the monthly rentals; it may not purchase another aircraft of similar size and purpose; it must offer the aircraft for sale bearing all costs of maintenance and sales demonstration; bear all costs of the loss of use of the aircraft; etc.

We have also considered the situation in a refinancing, or sale and leaseback arrangement, where the lessee is also a sublessor, with a sublease term that exceeds the "head" lease term, thus requiring the lessee to either exercise the option so as to be able to make the aircraft available to the sublessee for the balance of the subterm, replace the aircraft at higher cost to the lessee, or suffer the damages as a result of being unable to provide the leased aircraft because it failed to exercise the purchase option. While this aspect, standing alone, is not fully persuasive of an economic incentive, it is a factor to be considered in determining the benefits and burdens on the lessee to exercise the option.

Also as part of the benefits and burdens analysis, we have considered the situation where the prospective value of the aircraft at the end of the term exceeds the option price. While we are not persuaded that this aspect, standing alone, is completely determinative of the issue of economic compulsion to exercise the option, it is helpful in determining that the lessee would lose not only its equity in the aircraft, but also its opportunity fully to acquire an asset of greater value than the option price. When considered with other aspects, it would provide information that "the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised" (UCC 1-207(37)(x)) would exceed the cost of exercising the option, leading to a determination that it would be exercised under all reasonably foreseeable circumstances.

In asking you and other aircraft financing counsel for your analysis, the agency asked for evaluation of the tests of true lease/conditional sale stated in the *Brookside Drug Store* case (29 UCC Reporter 230). Uniformly, the response has been that the *Brookside* case has been discredited, since most of the tests relate to clauses that are common to both true leases and conditional sales. In addition, there is no uniformity as to whether the tests are cumulative, or stand alone; accordingly, we have determined that application of the *Brookside* tests will not constitute the standard for FAA decisions on leases intended as security.

One of the standard tests for determining whether a lease is actually one intended for security is that the burdens and benefits are those of the lessee, and require the lessee to bear all costs of maintenance, taxes, operation, insurance, etc. While this is also a customary feature of aircraft true leases, it nevertheless should be a necessary element of leases intended as security, and will be stated as a requirement.

Many of the cases we have reviewed also discuss the fact that in a lease intended as security, the lessee does not have the unilateral right to terminate the lease without economic penalty. This penalty is customarily an amount roughly equal to unpaid rentals and the termination fee, or roughly equal to the lessor's remaining obligation under its acquisition financing. We consider it important to require, as we have opined on previous occasions, that the lessee may not have the unilateral right to walk away with economic impunity.

Accordingly, we are of the opinion that the Registry should recognize as the owner for aircraft registration purposes the lessee under a lease with an option to purchase when:

(1) The purchase option is 10 percent or less of the value of the aircraft determined at the time the lease is executed; OR

(2) The purchase option price is above the 10 percent bright line, but contains a requirement that if the option is not exercised, the lessee nevertheless is obligated to pay a residual value or termination sum equal to or exceeding the purchase option price; OR

(3) The purchase option is higher than 10 percent and there is no mandatory full payout if the option is not exercised, but the option price is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised.

In all cases where a lease in form is to be considered a lease intended for security, the following usual factors must also be present:

(a) The lessee has the obligations of maintenance, insurance, taxes, operations and risk of loss; and

(b) The lease must not permit the lessee the unilateral right to terminate the lease without economic penalty.

In reaching these conclusions, we are indebted to you and to the other counsel and offices who have given us the benefit of their considerable time and research into complex tax and commercial law.

Sincerely,

Gregory S.Walden,

Chief Counsel.

[FR Doc. 90-23260 Filed 10-2-90; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

[BS-AP-NO. 2985]

Norfolk and Western Railway Co.; Public Hearing

The Norfolk and Western Railway Company has petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed discontinuance and removal of the traffic control system from Arcadia, Ohio to Lima, Ohio, and from South Lima, Ohio, to Muncie, Indiana.

This proceeding is identified as FRA Block Signal Application Number 2985.

The FRA has issued a public notice seeking comments of interested parties and conducted a field investigation in this matter. After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10 a.m. on Wednesday, November 14, 1990, in the Burgundy Room of the Holiday Inn at 3330 Coliseum Boulevard in Fort Wayne, Indiana.

The hearing will be an informal one and will be conducted in accordance with Rule 25 of the FRA Rules of

Practice (49 CFR part 211.25), by a representative designated by the FRA.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, DC. on September 26, 1990.

J. W. Walsh,

Associate Administrator for Safety.

[FR Doc. 90-23313 Filed 10-2-90; 8:45 am]

BILLING CODE 4910-06-M

[BS-AP-NO. 2977]

Union Pacific Railroad Co., CSX Transportation, Southern Railway Co.; Public Hearing

The Union Pacific Railroad Company, CSX Transportation and Southern Railway Company have petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed conversion of the manual interlocking at Mt. Vernon, Illinois, to automatic operation.

This proceeding is identified as FRA Block Signal Application Number 2977.

The FRA has issued a public notice seeking comments of interested parties and conducted a field investigation in this matter. After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10 a.m. on Friday, November 16, 1990, in the County Board Room of the Jefferson County Court House at Tenth and Broadway Streets in Mount Vernon, Illinois.

The hearing will be an informal one and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR part 211.25), by a representative designated by the FRA.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make brief rebuttal statements will be given the opportunity to do so in the same order in which they make their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, DC on September 20, 1990.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 90-23312 Filed 10-2-90; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Applicable Rate of Interest on Nonqualified Withdrawals from a Capital Construction Fund

Under the authority in section 607(h)(4)(B) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177(h)(4)(B)), we hereby determine and announce that the applicable rate of interest on the amount of additional tax attributable to any nonqualified withdrawals from a Capital Construction Fund established under section 607 of the Act shall be 9.28 percent, with respect to nonqualified withdrawals made in the taxable year beginning in 1990.

The determination of the applicable rate of interest with respect to nonqualified withdrawals was computed, according to the joint regulations issued under the Act (46 CFR 391.7(e)(2)(ii)), by multiplying eight percent by the ratio which (a) the average yield on 5-year Treasury securities for the calendar year immediately preceding the beginning of such taxable year bears to (b) the average yield on 5-year Treasury securities for the calender year 1970. The applicable rate so determined was computed to the nearest one-hundredth of one percent.

Dated: September 27, 1990.

Warren G. Leback,

Maritime Administrator.

Jennifer Joy Wilson,

Acting Administrator, National Oceanic and Atmospheric Administration.

Kenneth W. Gideon,

Assistant Secretary for Tax Policy.

So ordered by Maritime Administrator, Maritime Administration.

Administrator, National Oceanic and Atmospheric Administration.

Assistant Secretary for Tax Policy, Department of the Treasury.

James E. Saari,

Secretary, Maritime Subsidy Board, Maritime Administration.

[FR Doc. 90-23314 Filed 10-2-90; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 79-17; Notice 40]

New Car Assessment Program; Deformable Moving Barrier Crash Test Results and Analysis

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of closing a docket.

SUMMARY: This notice announces the agency's decision to discontinue additional testing to determine if a Deformable Moving Barrier (DMB) should be used in the agency's New Car Assessment Program (NCAP). After reviewing the DMB program in relation to its other crash testing activities, NHTSA has determined that DMB testing in NCAP is of lower priority. Given the agency's budget constraints and the uncertain benefits that could currently be derived from DMB testing in NCAP is of lower priority. Given the agency's budget constraints and the uncertain benefits that could currently be derived from DMB testing in NCAP, the agency has decided not to conduct further research about such a device for NCAP in the near future. Therefore, this notice closes the docket on the use of a DMB in NCAP.

FOR FURTHER INFORMATION CONTACT: Mr. James Hackney, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202) 366-5282.

SUPPLEMENTARY INFORMATION:

Under the New Car Assessment Program (NCAP), new vehicles are crashed in frontal tests at 35 miles per hour (mph) into a fixed rigid barrier (FRB). The crash tests represent head-on collisions between two identical vehicles each moving at 35 mph, or one parked and the other moving at 70 mph. The tests are designed to provide information to consumers about relative levels of occupant protection and vehicle safety performance among vehicles of similar size and weight. These data, however, cannot be used to compare information on

crashworthiness among vehicles of different sizes and weights.

Because consumers may incorrectly use NCAP data when comparing vehicles of different sizes and weights, the agency conducted experimental crashworthiness testing with a Deformable Moving Barrier (DMB), a device which might permit such comparisons. The DMB tests attempted to examine the role of vehicle weight, structure, and delta V (change in velocity) on occupant injury levels. The program consisted of frontal impacts between a DMB and a vehicle, each moving at 35 miles per hour, with a closing velocity of 70 mph. The DMB is a fixed-axle, four-wheeled, steel-framed vehicle weighing 3,000 pounds with a replaceable front energy-absorbing face. It is designed to absorb a portion of the crash energy while simulating an average-weight "other" vehicle in a vehicle-to-vehicle collision. Ten vehicles weighing from 2,020 to 3,750 pounds were tested. The agency analyzed the data from DMB and FRB tests of identical vehicles for relationships between the two crash modes and real-world crash data. The program was experimental in nature and was not intended to provide conclusive results on the DMB test configuration.

The agency's report compared the results of previous NCAP tests with DMB tests in an attempt to assess whether the effects of vehicle weight, structure, and delta V are evident in the dummy injury measurements of each test series. ("Analysis of NHTSA's 35-MPH Frontal Crash Tests of Vehicles by a Deformable Moving Barrier," 79–17–GR–061 (March 1988)). The report reached several tentative conclusions. First, the regression analysis demonstrated a weak relationship between vehicle weight and dummy unjury measures. Second, DMB tests showed some correlation between vehicle weight and delta V and unjury measures. Third, DMB tests appeared to assess the effects of vehicle mass differences and structural crashworthiness. Four, DMB tests appeared to offer a repeatable structure for use as a surrogate vehicle in vehicle-to-vehicle crash tests. The report warned that many other vehicle and occupant factors influence frontal crashworthiness and that the DMB used in the test was an experimental structure which would need modifications.

The agency requested comments about the DMB technical report, including the DMB's design and test repeatability. (53 FR 10182, March 29, 1988). The notice also sought test data and analyses about DMBs in frontal crashes, including General Motors' efforts in this area. In a May 23, 1988 notice, the agency announced an extension of the comment period an additional 45 days. (53 FR 18369)

Ten manufacturers and the Insurance Institute for Highway Safety (IIHS) commented about the DMB's characteristics, and real-world crashes. The commenters offered many different opinions about DMB versus FRB testing. While Chrysler, Honda, and Volvo favored the development of DMB testing, Ford and Nissan favored continuing FRB testing rather than DMB testing. GM, Renault and Volkswagen, recommended alternative testing programs. IIHS suggested that DMB testing be supplemental to rather than a replacement for FRB tests. Subaru believed that DMB test results would be misinterpreted by consumers, in the same manner as NCAP's FRB results. Toyota stated that DMB tests would be detrimental to highway safety.

Several commenters criticized specific characteristics of the DMB tests. For instance, they advised that the DMB was stiffer than real-world vehicles. Others believed that the DMB poses problems with repeatability and reproducibility. Several commenters were concerned that the DMB program would significantly increase testing costs. Commenters also questioned whether DMB test data could be correlated with real-world injuries.

After reviewing the docket comments in relation to its crash testing activities, NHTSA has decided to discontinue any further examination of the possible use of a DMB in NCAP testing. After studying the alternative approaches suggested by the commenters, the agency has presented the agency's preliminary plans for different types of frontal testing at the 12th International Technical Conference on Experimental Vehicles in Sweden. The agency anticipates extensive research into frontal crash modes and crash configurations, including car-to-car full and offset frontal, offset barrier, and higher speed tests. The agency is also considering the development of different test devices and test procedures. The agency will continue to review the results from its efforts relative to NCAP and to examine NCAP and other crash test results relative to real-world injury data. In relation to these efforts, NHTSA has determined that DMB testing is of lower priority. In addition, the agency agrees with comments that to make the DMB program reliable, additional research on vehicle closing speed, orientation at impact, and the DMB's characteristic such as its stiffness and symmetry would be necessary. Given the agency's budget constraints and the uncertain benefits currently obtainable from DMB use in NCAP testing, the agency will not pursue this subject in the near future. This notice announces the agency's decision to close Docket No. 79–17, Notice 38 on DMB testing.

Issued on September 27, 1990.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 90–23310 Filed 10–2–90; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 90–22–IP–No. 1]

Uniroyal Goodrich Tire Co.; Receipt of Petition for Determination of Inconsequential Noncompliance

Uniroyal Goodrich Tire Company (Uniroyal Goodrich), of Troy, Michigan, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.109, Federal Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires," on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Standard No. 109 requires that tires have molded into or onto both sidewalls one size designation, except that equivalent inch and metric size designations may be used. Uniroyal Goodrich manufactured 3,100 tires that were stamped with the incorrect size designation of P225/80VR15 on the DOT serial number black sidewall side. The correct size designation for these tires is P225/60VR15.

Uniroyal Goodrich supports its petition for inconsequential noncompliance with the following:

(1) The proper load rating appears on both sidewalls.

(2) Any person purchasing this speed rated tire could obviously see that the tire was a 60 aspect ratio tire rather than an 80 aspect ratio.

(3) The industry does not have a P225/80 aspect ratio tire available, so no consumer would purchase these tires as 80 aspect tires.

(4) Uniroyal Goodrich knows of only one tire produced during the 43rd week

of 1989 and at most, there is a limited number in the field.

Interested persons are invited to submit written data, views and arguments on the petition of Uniroyal Goodrich described above. Comments should refer to the Docket Number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the Federal Register pursuant to the authority indicated below.

Comment closing date: November 2, 1990.

(15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on September 27, 1990.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 90-23311 Filed 10-2-90; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: September 27, 1990.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Interal Revenue Service

OMB Number: 1545-0704.

Form Number: 5471, Schedules M, N, and O.

Type of Review: Resubmission.

Title: Information Return of U.S Persons with Respect to Certain Foreign Corporations.

Description: Form 5471 and related schedules are used by U.S. persons that have an interest in a foreign corporation. The form is used to report income from the foreign corporation. The form and schedules are used to satisfy the reporting requirements of sections 6035, 6038 and 6046 and the regulations thereunder pertaining to the involvement of U.S. persons with certain foreign corporations.

Respondents: Individuals or households, businesses or other for-profit, small businesses or organizations.

Estimated Number of Respondents: 88,000.

Estimated Burden Hours Per Response/Recordkeeping:

Form	Recordkeeping	Learning about the law or the form	Preparing and sending the form to IRS
5471	79 hrs., 10 min.	23 hrs., 57 min.	29 hrs., 53 min.
Sch. M (5471)	24 hrs., 23 min.	24 min.	49 min.
Sch. N (5471)	8 hrs., 22 min.	3 hrs., 35 min.	3 hrs., 52 min.
Sch. O (5471)	10 hrs., 31 min.	12 min.	23 min.

Frequency of Response: Annually.

Estimated Total Recordkeeping/ Reporting Burden: 6,756,925 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90-23354 Filed 10-2-90; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 192
Wednesday, October 3, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 55 FR 39232, September 25, 1990.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Approximately 10:30 a.m., Friday, September 28, 1990, following a recess at the conclusion of the open meeting.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting:

Consideration of issues related to legislative matter.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: October 1, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-23504 Filed 10-1-90; 12:30 pm]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNOR

TIME AND DATE: 10:00 a.m., Tuesday, October 9, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 28, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-23462 Filed 10-1-90; 10:13 am]

BILLING CODE 6210-01-M

federal register

Wednesday
October 3, 1990

Part II

Postal Service

39 CFR Part 111

Eligibility Requirements for Automated Rate Categories; Proposed Rule

POSTAL SERVICE

39 CFR Part 111

Eligibility Requirements for Automated Rate Categories

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposal will amend the Domestic Mail Manual to update the physical preparation, optical character reader (OCR) readability, and barcode preparation requirements for pieces qualifying for current automation based rate categories (First-Class nonpresorted ZIP + 4, ZIP + 4 Presort, ZIP + 4 barcoded; and third-class basic ZIP + 4, 5-digit ZIP + 4, and ZIP + 4 barcoded mail) to more accurately reflect the types of mailpieces that can be efficiently processed on current automation equipment.

This rule also proposes significant changes in postal policy for addressing mail that qualifies for automation based discounts. It will require: 1) that mailers use the finest level (depth) of ZIP + 4 code available for an address in the USPS ZIP + 4 data file on their mailpieces (in either numeric or barcode form or both); 2) that complete addresses necessary to obtain the finest level of ZIP + 4 code available for the delivery point appear in the address on mailpieces entered at all automation based rates; 3) that, for nonbarcoded ZIP + 4 mailings, the addresses also appear in the standardized format prescribed by the Postal Service; and 4) that Coding Accuracy Support System (CASS) certified software be used to match addresses with the USPS ZIP + 4 database to ensure that the ZIP + 4 codes appearing numerically and/or in barcode form are accurate and the finest level of ZIP + 4 coding available for each delivery point. Mailpieces that do not bear the finest level of ZIP + 4 coding (either as a numeric ZIP + 4 code or a ZIP + 4 barcode, as appropriate) will not be eligible for automation based rate discounts.

DATE: Comments must be received on or before November 2, 1990.

ADDRESS: All written comments should be mailed or delivered to the Director, Office of Classification and Rates Administration, U.S. Postal Service, Room 8430, 475 L'Enfant Plaza West, SW, Washington, DC 20260–5360. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 8430 at the above address.

FOR FURTHER INFORMATION CONTACT: Mrs. Lynn Martin, (202) 268–5176, for information on all aspects except addressing requirements for finest level of ZIP + 4 code, standardized or complete addresses, and CASS certification.

Mr. Paul Bakshi, (202) 268–3520, for information concerning the requirements for finest level of ZIP + 4 code, standardized or complete addresses, and CASS certification.

SUPPLEMENTARY INFORMATION: The current physical optical character reader (OCR) readability requirements for ZIP + 4 mail were formulated in 1983 when the Postal Service's automation program was just beginning. At that time, the regulations were written for a single-line OCR environment, and the Postal Service had limited experience with the acceptability and readability of various types of mailpieces.

The sophistication of the equipment deployed in the Postal Service's automation program has increased since its beginnings in 1983, most notably in the shift to primary use of multi-line OCRs. Furthermore, the Postal Service has obtained more experience governing the mailpiece preparation needs of our automation equipment since the original Domestic Mail Manual (DMM) requirements for automation compatible pieces were published in 1983. Currently, the USPS is rapidly expanding the amount of mail it handles on automation equipment and has proposed expansion of automation discounts in the pending rate case, PRC Docket No. R90–1. Accordingly, the Postal Service needs to update the eligibility requirements for mailpieces that obtain a discount because they can be efficiently processed on automation equipment.

Similarly, as the Postal Service moves towards automation as the primary means of processing mail, the importance of correct ZIP + 4 codes and barcodes increases. The finest level (depth) of ZIP + 4 coding is necessary to assign an address to the correct carrier route as well as to group mail within a carrier route by block face, floor in a large building, cluster of boxes, firm, or other specific geographic location. As the Postal Service moves towards use of barcode sorters to place mailpieces for letter carriers in delivery point walk sequence, use of the finest level (depth) of ZIP + 4 coding will become even more important. Under this environment, mail will be sequenced for delivery by barcode sorter, which means a letter-size piece with an incorrect barcode may not be detected until the letter carrier is about to deliver the piece on the street. Therefore, the accuracy of mailer applied barcodes becomes of utmost importance to the efficient processing of automation compatible mail.

The following changes governing eligibility for First-Class nonpresorted ZIP + 4, Presorted ZIP + 4, ZIP + 4 barcoded; and third-class basic ZIP + 4, 5-digit ZIP + 4 and ZIP + 4 barcoded rate categories are proposed to ensure that only the types of mailpieces that can be efficiently processed on current automation equipment can qualify for automation based rates. The first group of changes addresses the physical characteristics of mailpieces. The second group of changes focuses on the accuracy and completeness of addresses used on automation rate mail. The third group of changes will rectify some anomalous requirements with regard to First-Class ZIP + 4 Presort rate mailings.

In reviewing the proposed addressing changes, customers are urged to pay particular attention to the following areas:

(1) The requirement for the finest level (depth) of ZIP + 4 coding, and use of CASS certified software to obtain the ZIP + 4 codes;

(2) The requirement for complete addresses on all mailpieces qualifying for automation based rate discounts, including ZIP + 4 barcoded mail;

(3) The requirement for complete and standardized addresses for nonbarcoded ZIP + 4 rate mail.

(4) The requirement that mailpieces not meeting the finest level of ZIP + 4 code requirement, or the complete and/or standardized address requirement as appropriate, do not qualify for ZIP + 4 or ZIP + 4 barcoded rates; and

(5) The requirement that pieces not meeting the finest level of ZIP + 4 code requirement or the complete and/or standardized address requirement must not contain the ZIP + 4 code in their address and, if in a ZIP + 4 barcoded mailing, must not bear a ZIP + 4 barcode.

The reviewer should also note that the eligibility requirements proposed in this rulemaking will apply, in accordance with their terms, to the current automation based rate categories of mail—nonpresorted ZIP + 4, ZIP + 4 Presort, and ZIP + 4 barcoded First-Class Mail; and basic ZIP + 4, 5-digit ZIP + 4, and ZIP + 4 barcoded third-class mail. In the rate change case currently pending before the Postal Rate Commission (PRC Docket No. R90–1), the Postal Service has requested that the Commission issue a favorable recommended decision on the establishment of additional automation based rate categories. If those rate

categories are established, the Postal Service intends to apply these proposed eligibility requirements to those new rate categories as well. However, this proposal to amend the eligibility requirements for existing automation based rate categories is not conditional upon the outcome of the rate proceeding. The Postal Service expects to issue the final rule on these proposed eligibility requirements for existing ZIP + 4 coded and ZIP + 4 barcode rate mail prior to the completion of the rate proceedings.

A. Physical Characteristics

(1) New minimum thickness requirements and requirements for the basis weight of paper stock used to prepare mailings at all automation based rates (nonpresorted ZIP + 4, ZIP + 4 Presort, First-Class ZIP + 4 Barcoded; basic ZIP + 4, 5-digit ZIP + 4, and third-class ZIP + 4 barcoded rates) are proposed to limit eligibility to those pieces that are sufficiently sturdy to be successfully transported through the USPS's current automation equipment. Engineering studies and mailer complaints concerning damaged pieces have shown that mailpieces that are at least 3½ by 5 inches and not larger than 4¼ by 6 inches can be successfully processed on automation equipment if they are at least .007 of an inch thick and the basis weight requirements discussed below for the paper stock are met. Pieces larger than 4¼ by 6, however, generally must be prepared with paper stock meeting the basis weight requirements discussed below and be at least .009 of an inch thick to be successfully processed on automation equipment. Accordingly, proposed sections 324.411 and 624.441 require that pieces measuring over 4¼ inches in height and/or 6 inches in length must be at least .009 of an inch thick.

Engineering tests have also shown that paper envelopes, paper used to prepare self-mailers (folded single sheets) and the outer covering sheet or sheets of other mailpieces must have a minimum basis weight of 20 pounds in order to be successfully transported through automation equipment. Therefore, proposed sections 324.44a, 325.41, 624,444a, 624.54, and 624.64 establish a minimum 20 pound basis weight requirement for these types of mailpieces. Engineering studies have also shown that cards must be printed on paper stock meeting a standard industry minimum basis weight of 75 pounds and must be free from groundwood (unless specially coated) in order to be stiff enough to be successfully transported through automation equipment. Therefore, proposed sections 324.44b 325.41, 624.444b 624.54 and 624.64, require that cards mailed at automation rates meet a minimum 75 pound basis weight requirement.

(2) Engineering tests performed to date have shown that there is a reduction in throughput on automation equipment for pieces that exceed 2 ounces in weight. An even more pronounced drop-off of throughput occurs at the 2½ ounce point. Therefore, proposed sections 324.42, 325.41, 624.442, 624.54, and 624.64 provide that pieces weighing over 2.5 ounces will not qualify for automation based rates (First-class nonpresorted ZIP + 4, Presorted ZIP + 4, ZIP + 4 barcoded; and third-class basic ZIP + 4, 5-digit ZIP + 4, and ZIP + 4 barcoded rates).

(3) New requirements concerning mailpiece construction are proposed for all automation based rate categories. The current requirements for automation compatible mail were designed under the assumption that enveloped mail would be submitted for automated rate categories. In 1988, barcoding incentives were added to both First- and third-class mail, and two levels of ZIP + 4 discounts were added to third-class mail. This expansion in the types of automation rate discounts available has produced an expansion in the types of mailpieces submitted for automation based rate discounts. The incidence of non-enveloped mailpieces being submitted at ZIP + 4 and ZIP + 4 barcoded rates is increasing. Self-mailers prepared from folded single sheets, and booklet type mailpieces, that are open on three sides, cannot be successfully processed on the current automation equipment. Testing on equipment has resulted in a determination of methods of closure that could make such mailpieces suitable for processing on automation equipment. As a result of this testing, proposed sections 324.43, 325.6, 624.443, 624.54, and 624.64, (pertaining to First-class nonpresorted ZIP + 4, Presorted ZIP + 4, ZIP + 4 barcoded; and third-class basic ZIP + 4, 5-digit ZIP + 4, and ZIP + 4 barcoded mail) will require that all pieces be prepared in a sealed envelope or be sealed on all four edges, with the exception of self-mailers, double postcards, and booklet type mailpieces if prepared with two tabs. The folded edge or spine of self-mailers, double cards, and booklets prepared with tabs must be the bottom edge of the mailpiece in relation to the address. The tabs must be placed on the top edge of each of these mailpieces, one within one inch of the left edge and one within one inch of the right edge of each mailpiece. As an alternative, the top edge can be spot glued or continuously glued.

(4) Rigid items within mailpieces such as pens, pencils, keys and bottle caps are not flexible enough to negotiate the turns that mail must go through in current automation equipment. Accordingly, proposed sections 324.434, 325.6, 624.443c, 624.54 and 624.66 (pertaining to First-Class nonpresorted ZIP + 4, Presorted ZIP + 4, ZIP + 4 barcoded; and third-class basic ZIP + 4, 5-digit ZIP + 4, and ZIP + 4 barcoded mail) will provide that such items are not mailable at any of the automation based rates, and that the contents of mailpieces must be able to bend easily when subjected to a transport belt tension of 40 pounds around an 11-inch diameter drum. This proposed section also requires that odd-shaped items that meet the flexibility criteria such as small coins or tokens may be included in automation based rate mailings only if they are firmly affixed to part of the contents and are wrapped in the envelope's other contents in order to streamline the mailpiece. This is intended to prevent these odd-shaped items from damaging mail or equipment, or puncturing and exiting the mailpieces during automated processing.

(5) Address labels and other labels or stickers that are not securely and uniformly glued with permanent adhesive, including stickers or labels designed for removal, tend to peel off mailpieces as they are transported through postal automation equipment. This results in undeliverable or damaged mailpieces. Accordingly, proposed sections 324.435, 325.41, 624.443e, 624.54, and 624.64 (pertaining to First-Class nonpresorted ZIP + 4, Presorted ZIP + 4, ZIP + 4 barcoded; and third-class basic ZIP + 4, 5-digit ZIP + 4, and ZIP + 4 barcoded mail) require that all labels and stickers, including address labels, affixed to the outside of mailpieces entered at any of the automation based rates be completely affixed with permanent glue or adhesive.

(6) Mailpieces that are poly-wrapped or poly-bagged cannot be successfully transported through Postal Service automated equipment. Accordingly, sections 324.45, 325.6, 624.445, 624.54, and 624.66 (pertaining to First-Class nonpresorted ZIP + 4, Presorted ZIP + 4, ZIP + 4 barcoded; and third-class basic ZIP + 4, 5-digit ZIP + 4, and ZIP + 4 barcoded mail) will prohibit the mailing of mailpieces wrapped in such a manner at any of the automation based rates.

(7) Postal Service OCRs must use water-based ink to spray barcodes

(because of the hazardous nature of other inks). Accordingly, the paper upon which mailings at the ZIP + 4 rates are printed must allow water-based ink applied by an ink jet to dry within ⅓ of a second, without smearing. To ensure the production of readable barcodes, proposed sections 324.45, 624.445, and 624.54 require use of this type of paper for mail entered at nonpresorted ZIP + 4, ZIP + 4 Presort, Basic ZIP + 4, and 5-digit ZIP + 4 rates. These sections further specify that mailpieces prepared with glossy paper, paper with glossy coatings, and non-paper material such as spun bonded olefin, will not be accepted for mailing at ZIP + 4 rates unless approved by the USPS Engineering and Development Center. Such approval will be granted only if it is demonstrated such materials can accept water-based ink in the manner indicated above.

(8) Because there must be a certain amount of contrast between the background on the mailpiece and the ink used to print the address to assure the OCR can accurately read the address, more precise reflectance requirements are proposed in sections 324.65, 624.454, and 624.55 (for nonprestorted ZIP + 4, ZIP + 4 Presort, basic ZIP + 4 and 5-digit ZIP + 4 mail only). These sections will:

(a) Add a requirement that the background reflectance of the material upon which the address is printed must be at least 50 percent in the red and 45 percent in the green portions of the optical spectrum.

(b) Clarify that the current provision for a print contrast ratio of at least 40 percent is mandatory. A new requirement that a print contrast ratio of 45 percent is required if the address is covered by a glassine window (as opposed to clear plastic material) is also proposed.

(c) Require that the envelope material, any insert material that can be viewed through an adderss window, or the outermost sheet of a non-enveloped mailpiece, must be sufficiently opaque to prevent non-address printing on material inside the mailpiece from "showing through" to the extent that it affects OCR processing. The regulation specifies that a print contrast ratio of any non-address print that may show through in the OCR read area must not exceed 15 percent when measured in the red and green spectra.

(d) Require that the outer surface of the front of the mailpiece (the envelope, card, insert material, or outermost sheet of a non-enveloped piece) not contain dark fibers or background patterns that produce a print contrast ratio of more than 15 percent when measured in the read and green spectra.

(9) Postal Service multi-line OCRs are designed to read the entire address, including the name of the recipient, in order to apply the best possible ZIP + 4 barcode to the mailpiece. To ensure that the finest depth of ZIP + 4 coding is achieved, proposed sections 324.62, 624.452 and 624.55 (for nonpresorted ZIP + 4, ZIP + 4 Presort, basic ZIP + 4 and 5-digit ZIP + 4 mail only) contain a new requirement that the entire address must be printed in the OCR read area.

(10) The Postal Service's multi-line OCR scanners have the capability to read within ½ of an inch from the left and right edges of mailpieces. Taking advantage of this capability will make it easier for smaller card-type mailpieces to qualify for ZIP + 4 rates because addresses can more easily be printed in the OCR read area if it is expanded an extra ½ inch towards both the left and right edges of mailpieces. To accommodate the need discussed in (9) above to place the entire address within the OCR read area, the uppermost boundary of the OCR read area is also extended from 2¼ inches from the bottom edge to 2¾ inches from the bottom edge. Accordingly, proposed sections 324.61, 624.451 and 624.55 (for nonpresorted ZIP + 4, ZIP + 4 Presort, basic ZIP + 4 and 5-digit ZIP + 4 mail only), specify that the OCR read area is formed inside the following boundaries:

(a) ½ of an inch from the left edge,

(b) ½ of an inch from the right edge,

(c) 2¾ of an inches from the bottom edge,

(d) ⅝ of an inch from the bottom edge.

(11) Because OCRs can scan the entire face of most mailpieces, placing the return address in the OCR read area is prohibited. To further assure that return address information is not considered part of the address by OCR equipment, proposed criteria specifying a particular location for the return address on mailpieces in ZIP + 4 rate mailings have been developed. Proposed sections 324.63b, 624.453b, and 624.55 (for nonpresorted ZIP + 4, ZIP + 4 Presort, basic ZIP + 4 and 5-digit ZIP + 4 mail only) require return addresses to be placed outside the OCR read area and in the top left corner of the front of the mailpiece in an area no further right than half of the length of the mailpiece, and no lower than ⅓ of the height of the mailpiece. Proposed sections 324.63c, 624.453c, and 624.55 also require mailer endorsements concerning forwarding, return, and address correction services to appear below the return adderss, but outside the OCR read area.

(12) The Postal Service has performed studies that show a need for high quality print in addresses, as defined by a list of criteria, in order to assure a high degree of error free OCR readability. Accordingly, the following list of criteria that define OCR readable type are added to proposed sections 324.64, 624.455 and 624.55 (for nonpresorted ZIP + 4, ZIP + 4 Presort, basic ZIP + 4 and 5-digit ZIP + 4 mail only):

(a) Machine printed addresses are required.

(b) Italic, script, artistic, cyrillic, "light", "bold," etc., type fonts and dot matrix printing with separated matrix elements of .005 of an inch or more are not acceptable.

(c) A high degree of print quality is required for address characters (no smudges, faded characters, voids, or extraneous ink).

(d) A uniform character height of no less than 80 mils nor more than 200 mils is required.

(e) The height of address characters divided by their width must fall between 1.1 and 1.7.

(f) A uniform character stroke width of no less than 10 mils nor more than 30 mils is required.

(g) A clear vertical column of at least 10 mils and no more than 40 mils is required between each character of the address.

(h) A clear vertical space of no less than the width of one full "em" character or more than the width of five full characters must exist between words of the address.

(i) Spacing between lines of the address must be uniform and no less than 30 mils or more than the height of two full characters.

(j) The lines of the address must not be skewed more than 5 degrees relative to the bottom of the mailpiece.

(13) To ensure that addresses printed on inserts that appear through windows are readable by OCR equipment, a requirement that non-tinted clear or transparent material glued securely on all edges is used to cover windows, if they are covered, is proposed in sections 324.66, 624.456, and 624.55 (for nonpresorted ZIP + 4, ZIP + 4 Presort, basic ZIP + 4 and 5-digit ZIP + 4 mail only). (As indicated earlier, glassine may be used to cover windows only if the address information measured through the glassine meets a print contrast ratio of 45 percent.) A requirement that a clear space of at least ⅛ of an inch appear between the address block and the top, bottom and side edges of the address window is also proposed in sections 324.66, 624.456, and 624.55 (for nonpresorted ZIP + 4, ZIP + 4 Presort, basic ZIP + 4 and 5-digit ZIP + 4 mail only). This

requirement will ensure that any shadow cast by the edges of the window will not be read as an address character by an OCR.

(14) It has been determined by engineering studies that a background reflectance criteria for the material on which the barcode is printed of at least 50 percent in the red and 45 percent in the green portions of the optical spectrum is needed in conjunction with the current print reflectance difference to ensure a high degree of readability of barcodes. Proposed sections 325.51d and 624.68d (for First- and third-class ZIP + 4 barcoded mail only) add this requirement.

(15) When the wide area barcode readers currently being tested by the Postal Service are installed, it is expected that printing and markings will be acceptable in the barcode clear zone provided they do not lower the reflectance of the barcode to less than 50 percent in red and 45 percent in the green portions of the optical spectrum. Proposed sections 325.51 b and d and 624.68 b and d (for First- and third-class ZIP + 4 barcoded mail only) will contain a notice that this relaxation of the requirements is expected to go into effect when wide area barcode readers are deployed.

(16) This rule proposes to relax the horizontal spacing of the bars comprising barcodes from 21 bars plus or minus one bar per inch to 22 bars plus or minus two bars per inch. Both current barcode readers and wide area barcode readers being tested can read barcodes prepared according to the relaxed requirement. The pitch (a bar and a space) requirements are revised accordingly in proposed sections 325.51c and 624.68c (for First- and third-class ZIP + 4 barcoded mail only) to require the pitch to be at least .0416 of an inch and no greater than .050 of an inch. In addition, the spacing (a clear vertical column) betwen bars must never be less than .012 of an inch.

(17) When the Advanced Bar Code (ABC) system is deployed, additional space will be required to the right of any mailer-applied 5-digit barcodes in order for Postal Service OCRs to be able to add the "B Plus" field showing the additional 6 digits of the barcode. Accordingly, proposed sections 325.51c and 624.68c (for First- and third-class ZIP + 4 barcoded mail only) contain a notice that effective with deployment of the ABC system, the left edge of the barcode clear zone will be moved ¼ of an inch further from the right edge of the envelope. The location of the area within which the first bar of an ABC barcode must appear will also be moved ¼ of an inch further from the right edge of the mailpiece, but this will still allow ¾ of an inch tolerance for placement of the first bar of an ABC barcode. Similarly, the location of the area within which the first bar of a 5-digit barcode could appear will also be moved ¼ of an inch further from the right edge of the mailpiece, and will still allow ⅛ of an inch tolerance for placement of the starting bar of a 5-digit barcode.

(18) It is expensive for the Postal Service to handle mail with bad barcodes. Such pieces sometimes incur repeated processing through automation until the barcodes are manually obliterated. Then, the pieces must be manually or mechanically processed. Thus, sections 323.11, 323.3, 624.11, 624.21, and 624.31 are amended to show that matter entered at non-automation based rates bearing either a ZIP + 4 or 5-digit barcode will be required to meet the addressing, ZIP + 4 coding, and barcoding requirements of automation based rate mail to preclude an influx of erroneous or non-readable barcodes on pieces in these mailings; and to preclude an influx of 5-digit barcodes placed too far to the right on the mailpiece thereby preventing the Postal Service OCR's from completing the barcode. Furthermore, a recommendation is being added to these DMM sections that mail in non-automation based rate categories not be entirely prepared with 5-digit barcodes. This mail must undergo multi-line OCR processing to add the "B field" (the "plus 4" codes). Differences in inks used for barcodes by the USPS and industry can cause difficulties in OCR detection and reading of mailer applied barcodes when printed with different inks. This sometimes results in OCR's overprinting barcodes on mailer barcoded pieces which in turn produces pieces that are unreadable by USPS barcode sorters. Accordingly, the USPS would prefer that mailings that are not ZIP + 4 coded be submitted as non-barcoded pieces. Also, mailings bearing only 5-digit barcodes may be mistaken for mail bearing ZIP + 4 codes (or in the future ABC barcodes) and be sent to barcode sorters for processing. This results in delays since such pieces will be rejected off of barcode sorters and resubmitted for OCR processing. This problem will result in even greater service delays when the Postal Service deploys barcode sorters to smaller post offices. Such 5-digit coded mail, if erroneously sent to a delivery post office for barcode sorting, would have to be returned to the general mail facility for application of a "B field" or "B Plus field" or to be manually sorted.

B. Requirements for Content of Addresses and Accuracy of ZIP + 4 Codes for All Automation Based Rate Categories

The use of accurate ZIP + 4 codes is extremely important on all mail that will be entered at a discounted rate based upon the Postal Service's ability to process the mail more efficiently on its automated mail processing equipment. Therefore, a requirement that the finest level (depth) of ZIP + 4 code appear on mailpieces entered at any automation based rate is proposed in sections 324.2, 325.3, 624.431, 624.531, and 624.63. This requirement is necessary to make sure that mail processed on automation equipment is assigned to the proper carrier route, as well as properly sorted by block face, floor in a large building, cluster of boxes, firm, or other specific location. Mail bearing erroneous ZIP + 4 codes or barcodes, or mail bearing ZIP + 4 codes or barcodes that are not the finest level (depth) of ZIP + 4 code possible for an address, such as default building codes, will not qualify for automation based rates.

Because the Postal Service has no efficient means to verify that the numeric ZIP + 4 code or ZIP + 4 barcode, applied to mail entered at automation based rates, is the correct code, or to correct an erroneous code after acceptance, the Postal Service has determined that it must regulate the permissible means for obtaining ZIP + 4 code information in order to ensure that only the finest level of ZIP + 4 coding is used on mail receiving a discount for that coding. Thus, the Postal Service is proposing to require the use of complete addresses on mailpieces for all automation based rate categories (First-Class nonpresorted ZIP + 4, ZIP + 4 Presort, ZIP + 4 barcoded; and third-class basic ZIP + 4, 5-digit ZIP + 4, and ZIP + 4 barcoded rates). A complete address is one that contains all delivery address elements necessary to assure that a match can be made to the finest level (depth) of ZIP + 4 code shown for a delivery point in the USPS ZIP + 4 database. In addition to the street address (including street number, street name, post office box numbers, city, and state) apartment numbers, suite numbers, rural route box numbers, firm names, and all directional prefixes and suffixes will be required in those instances where they are necessary to obtain the finest level of ZIP + 4 coding. Only approved last line names (as shown in the USPS City State file) may be used in a complete address.

Addresses on mail that must undergo OCR processing (for non-ZIP + 4

barcoded mailings at nonpresorted ZIP + 4, ZIP + 4 Presort, basic ZIP + 4 and 5-digit ZIP + 4 mail) will also be required to be in a standardized format to ensure that the finest depth of ZIP + 4 barcodes will be applied to those pieces during OCR processing. A standardized address is printed in a specified format prescribed by the Postal Service. Only approved last line names (as shown in the USPS City State file) may be used in a standardized and complete address. All suffixes, directionals, and abbreviations must appear in a standardized address as they appear in the ZIP + 4 and City State files. Detailed guidelines for preparing standardized and complete addresses are set forth in Publication 28, *Postal Addressing Standards*. Pieces in automation based rate category mailings that do not meet these complete and/or standardized address requirements, as appropriate, will not qualify for automation based rates. Such pieces will also be prohibited from bearing any ZIP + 4 code in their address or any ZIP + 4 barcode on the mailpiece. This latter requirement is necessary so that the Postal Service can verify the 85 percent requirement for finest level of ZIP + 4 code and the requirements for standardized and/or complete addresses by means of the current documentation requirements that apply to the 85 percent requirement, and by checks of the matching software used to assign ZIP + 4 codes to addresses.

In order to ensure that addresses have been coded to the finest level of ZIP + 4 code, and that complete addresses appear on mailpieces for automation based rate mailings, mailers will be required to demonstrate that they use high quality ZIP + 4 matching software. Accordingly, only software that has a current Coding Accuracy Support System (CASS) certification from the Postal Service and utilizes up-to-date USPS ZIP + 4 databases will be permissible for use in assigning ZIP + 4 codes to addresses for automation based rate mailings (First-Class nonpresorted ZIP + 4, Presorted ZIP + 4, ZIP + 4 barcoded; and third-class basic ZIP + 4, 5-digit ZIP + 4, and ZIP + 4 barcoded mail). The software used to code the mailing list or lists used for an automation based rate mailing must have a valid CASS certification at the time of coding. Furthermore, mailings prepared from that mailing list or lists must be entered within 6 months of the coding date. National Change of Address (NCOA) licensees and the USPS (when USPS diskette coding service is used) are considered CASS certified vendors. The CASS certification process, which involves having a mailer assign ZIP + 4 codes to test address lists provided by the Postal Service, is the means by which the Postal Service tests that matching software properly assigns ZIP + 4 codes to addresses. If this proposal is adopted, the Postal Service will use CASS certification to ensure that matching software does not assign ZIP + 4 codes to addresses that are incomplete and thus cannot have the finest level of ZIP + 4 code assigned. Proposed sections 324.34, 325.44, 624.432d, 624.532d, and 624.644, explain how a mailer or software vendor may obtain CASS certification testing. Proposed sections 324.33, 325.43, 624.432c, 624.532c, and 624.643 set forth the documentation that will be required to be presented, with all mailings entered at automation based rates, to demonstrate that the mailings was prepared using an address list that had been properly matched using CASS certified software.

Hardcopy ZIP + 4 code directories are not an acceptable means of obtaining ZIP + 4 codes for automation based rate eligibility, because it is impractical for the Postal Service to update these directories on a sufficiently frequent basis to assure accurate up-to-date Zip + 4 coding.

C. Rate Qualification Changes for First-Class ZIP + 4 Presort Rate Mailings

(1) The requirements in 324.78 for preparing barcodes on inserts that appear through windows in the envelope for purposes of qualifying ZIP + 4 barcoded mail for ZIP + 4 Presort rates will be deleted. This will eliminate the current anomaly whereby less restictive requirements in 324.78 apply to barcodes appearing on inserts in mail that is submitted at the ZIP + 4 Presort rate than required for barcodes on inserts in mail in First-Class ZIP + 4 barcoded rate mailings. ZIP + 4 Presort rate mailings prepared with ZIP + 4 barcodes on inserts that appear through windows will be required to meet the same insert and window requirements currently in effect for such pieces mailed at the ZIP + 4 barcoded rate.

(2) Pieces in combined ZIP + 4 Presort mailings prepared under 365 and 366, DMM, that do not bear a ZIP + 4 code or ZIP + 4 barcode, will be required to meet the new physical preparation requirements, and if prepared without barcodes, also meet the OCR readability requirements. This will assure that all pieces in these mailings submitted for OCR processing (including the non-ZIP + 4 coded pieces) are processable on OCR equipment, and if submitted as part of mailings prepared with ZIP + 4 barcodes, will meet the requirements necessary to allow smooth transport of non-ZIP + 4 barcoded pieces through the barcode sorters.

(3) Currently, mailers submitting First-Class ZIP + 4 Presort mailings prepared under the optional preparation requirements in 366 are precluded from placing in those mailings mailpieces that are for 3-digit ZIP Code areas not on the automated site 3-digit listing in Exhibit 122.63m. These regulations will allow pieces for 3-digit ZIP Code areas not listed in Exhibit 122.63m to be placed in the residual portion of optional combined ZIP + 4 Presort mailings prepared in accordance with DMM 366. This will eliminate the necessity to prepare a separate mailing for non-automated site ZIP Code areas, provided the mailer is willing to pay nonpresorted rates on the pieces included in the residual portion of the mailing.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 533 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed revision of the Domestic Mail Manual, incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

PART 124—NONMAILABLE MATTER—ARTICLES AND SUBSTANCES; SPECIAL MAILING RULES

2. Add the following to the end of 124.47:

Letter-size pieces mailed at First- and third-class automation based rates (First-Class nonpresorted ZIP + 4, ZIP + 4 Presort, ZIP + 4 barcoded; third-class basic ZIP + 4, 5-digit ZIP + 4, and ZIP + 4 barcoded) must meet the requirements of 324.434, 325.6, 624.443c, 624.54, and 624.66. These sections require letter-sized pieces mailed at automation based rates to be flexible enough to be transported through Optical Character Reader (OCR) and Barcode Sorter (BCS) equipment, specifically excludes rigid items such as pens, pencils, and bottle caps within mailpieces, and requires that small odd-shaped items that meet the flexibility

requirements be affixed to part of the contents of the mailpiece and wrapped in the envelope's other contents so that the shape of the mailpiece is streamlined.

PART 323—PRESORTED FIRST-CLASS MAIL AND CARRIER ROUTE FIRST-CLASS MAIL

3. Add the following note to the end of 323.11:

Note: It is strongly recommended that Presorted First-Class mailings *not* be prepared so that pieces in the mailing bear a postnet 5-digit barcode. If a Presorted First-Class mailing is prepared with postnet barcodes (either ZIP + 4 or 5-digit) the pieces in the mailing must meet the ZIP Coding, addressing, documentation, and barcoding requirements in 325.3 through 325.5.

4. Add the following sentence to the end of section 323.2:

It is strongly recommended that carrier route First-Class mailings *not* be prepared so that pieces in the mailing bear a 5-digit postnet barcode. If a carrier route First-Class mailing is prepared with postnet barcodes (either ZIP + 4 or 5-digit) the pieces in the mailing must meet the ZIP Coding, addressing, documentation, and barcoding requirements in 325.3 through 325.5.

PART 324—ZIP + 4 FIRST-CLASS MAIL

5. In part 324, revise section 324.2 to read as follows:

324.2 ZIP Code Requirements. Each piece in a mailing must bear the correct ZIP + 4 code. The correct ZIP + 4 code is the finest level (depth) of ZIP + 4 code listed in the current USPS ZIP + 4 database for the complete address as defined in 324.3. The addressing, ZIP + 4 matching and documentation requirements of 324.3 must also be met. Either the correct numeric ZIP + 4 code in the address, or the correct ZIP + 4 barcode prepared in accordance with 324.7 will satisfy the requirement for a ZIP + 4 code. If a correct ZIP + 4 barcode appears on pieces in the mailing, the addressing and documentation requirements in 325.4 may be met instead of those in 324.3. Pieces bearing a ZIP + 4 barcode must also bear either the correct numeric 5-digit ZIP Code or the correct numeric ZIP + 4 code in the address.

Note: As provided in 365.22, 365.23, and 366.11b, up to 15 percent of the pieces in combined ZIP + 4 Presort and Presorted First-Class mailings prepared in accordance with the requirements in 365 or 366 are not required to bear a ZIP + 4 code or a standardized address. Such pieces must, however, bear the correct 5-digit numeric ZIP Code.

6. In part 324, delete existing 324.3 through 324.7 and replace it with the following new sections 324.3 through 324.7:

324.3 Accuracy of ZIP + 4 Coding.

.31 Address Requirements.

a. *Standardized and Complete Address Required.* In order to ensure accurate matching of the address to the finest depth of ZIP + 4 code as required in section 324.2, standardized and complete address as set forth in the remainder of this section must be used on all pieces qualifying for the ZIP + 4 Presort rate, except that pieces prepared with barcodes as described in 324.7 may instead meet the addressing requirements in 325.4. Detailed guidelines for preparing standardized and complete addresses are set forth in Publication 28, *Postal Addressing Standards.* To the extent possible, the addresses on pieces bearing 5-digit ZIP Codes as permitted in 365 and 366, should also be standardized.

Note: For purposes of qualifying for nonpresorted ZIP + 4 rates and ZIP + 4 Presort rates, the OCR readability requirements in 324.6 must be met instead of those in Publication 28.

b. *General Definition.* A standardized and complete address is one that contains all delivery address elements, such as firm name, address (street) number, pre-directional, street name, suffix, post directional, secondary address unit designator and number (e.g. APT 202, STE 200, etc.), or rural route number and box number (e.g. RR 5 Box 10), highway contract route and box number (e.g. HC 4 Box 45), or post office box number (e.g. PO Box 458), necessary to obtain an exact match with the ZIP + 4 file currently in effect to the finest level of ZIP + 4 code. A standardized address must also contain the correct city, state and ZIP + 4 code. Only approved last line (city or place) names as described in the city-state file currently in effect must be used. The address elements can be fully spelled or abbreviated. When abbreviated, the delivery address line abbreviations must be obtained from the ZIP + 4 file and the last line abbreviations must be obtained from the city-state file. Standardized addresses must be output to the mailpiece in the format shown in Exhibit 122.33, and further specified in 122.35. Detailed guidelines for the standardized address format are contained in Publication 28, *Postal Addressing Standards.* Pieces with addresses that do not meet the standardized and complete address requirements do not qualify for ZIP + 4 rates, and further, must not show a ZIP + 4 code in the address.

Note: Pieces prepared with barcodes in accordance with 324.7 may meet the requirements of 325.4 instead of the requirements of this section although it is recommended that they use standardized address formats as required in this section.

c. *Secondary Address Units.* Firm names and secondary address unit designators and numbers that show the specific apartment, building, floor, suite, unit, room, department, etc., are required to appear in the address on the mailpiece where such firm names or secondary address unit numbers are necessary to obtain a match with the finest level of ZIP + 4 code in the ZIP + 4 database. In instances where a firm name or secondary address unit number is needed to obtain the finest level of ZIP + 4 code, but is not known, the address that appears on the mailpiece must not bear a ZIP + 4 code (nor may the piece bear a ZIP + 4 barcode if prepared in accordance with 324.7). This means that alternative or default ZIP + 4 codes for a building are not acceptable on mailpieces entered at the ZIP + 4 rates when finer ZIP + 4 codes for apartment ranges, floors, suites, firms, etc., within that building are listed in the USPS ZIP + 4 database.

Note: To enhance delivery of mailpieces, mailers should make every effort to place secondary address unit designators and numbers on mailpieces where they exist for an address, even when secondary address unit numbers (or ranges of numbers) are not contained in the ZIP + 4 file for that street address and, therefore, are not needed to obtain a match to the finest level of ZIP + 4 code.

d. *Rural Routes and Highway Contract Routes.* A standardized and complete address for rural routes and highway contract routes contains the rural route or highway contract route number and the box number necessary to obtain an exact match with the ZIP + 4 file currently in effect to the finest possible level of ZIP + 4 code. The rural route or highway contract route box number must appear in the address on the mailpiece when it is necessary to obtain the finest level of ZIP + 4 code. In instances where a box number is needed to obtain the finest level of ZIP + 4 code but is not known, the address that appears on the mailpiece must not bear a ZIP + 4 code (nor may the piece bear a ZIP + 4 barcode if prepared in accordance with 324.7). This means that alternative or default ZIP + 4 codes for the route are not acceptable on mailpieces entered at the ZIP + 4 rates when finer ZIP + 4 codes for specified

box number ranges within that route are listed in the USPS ZIP + 4 database.

Note: To enhance delivery of mailpieces, mailers should make every effort to place box numbers for rural routes and highway contract routes on mailpieces where they exist for an address, even when box numbers (or ranges of box numbers) are not contained in the ZIP + 4 file for that route and therefore are not needed to obtain a match to the finest level of ZIP + 4 code.

e. *Post Office Box Addresses.* Post office box addresses must contain a post office box number that can be exactly matched with the ZIP + 4 file currently in effect.

.32 Requirements for Standardizing Addresses, Determining if Addresses are Complete, and Assigning ZIP + 4 Codes

.321 *Permissible Methods.* Any of the methods listed below for standardizing addresses, determining if addresses are complete, and assigning ZIP + 4 codes to addresses may be used. No other methods are permissible.

a. National Change of Address (NCOA) process.

b. Coding Accuracy Support System (CASS) certified matching software for ZIP + 4 matching.

c. USPS diskette ZIP + 4 coding service.

d. PC or mini-computer based manual look-up system that uses CASS certified software.

.322 *Up-to-Date CASS Certification and ZIP + 4 Database.* The ZIP + 4 matching software described in 324.321 a through d, must, at the time of ZIP + 4 coding, have a valid CASS certification and use the current USPS ZIP + 4 base file that has been updated with all monthly or quarterly change transaction files pertaining to that base file.

.323 *Date of Matching.* Addresses in mailings must have been matched using the ZIP + 4 matching software and current ZIP + 4 database described in 324.322 to obtain the correct ZIP + 4 numeric code within 6 months of the mail entry date.

.324 *Matching Rules.* Software parameter options governing the matching logic or rules used in certified software that could result in an address with an incorrect ZIP + 4 code, or assignment of a ZIP + 4 code that is not the finest level of ZIP + 4 code for the complete address must not be used. The address output to the mailpiece must reflect any decisions made by the software in determining the ZIP + 4 code. For example, suppose a mailpiece for a given city and Zip Code contains the address 123 Main Street. The ZIP + 4 file shows both a North Main Street and a South Main Street for that city and each has a street address number range that includes 123. The software matching logic either must not assign a ZIP + 4 code to the mailpiece, or must revise the address to conform to the directional selected. If the address is revised to match the address shown for a selected ZIP + 4 code, that address, including the chosen directional, must be output to the mailpiece in a standardized format as required in 324.31.

.33 Required Documentation.

a. *A Vendor's CASS Certified Software.* Mailers must submit a copy of Form 35XX with each ZIP + 4 mailing. A copy of the vendor's CASS certification, a copy of the invoice, as well as a copy of the job specification and/or output report(s) that show services were received from the CASS certified vendor must be attached to the Form 35XX. The documents must show the date the services were performed, the total number of addresses submitted for coding, and the total number of addresses successfully ZIP + 4 coded.

Note: National Change of Address (NCOA) licensees and the USPS (when USPS diskette coding service is used) are considered CASS certified vendors.

b. *A Mailer's CASS Certified Software.* Mailers using their own software that has a valid CASS certification must submit with each ZIP + 4 mailing a copy of Form 35XX. A copy of their CASS certification and internal records showing the date the mailing list was coded, the total number of addresses on the list, and the total number of addresses on the list that were successfully ZIP + 4 coded, must be attached to the Form 35XX.

c. *Mailings Comprised of or Derived From Several Different Mailing Lists.* When a mailing is comprised of addresses from several different mailing lists that may each have been ZIP + 4 coded by different methods or different mailers or vendors, the documentation described in 324.33 a and b must be provided for each mailing list included in the mailing. Example: A mailing contains addresses from Mailing List A that was ZIP + 4 coded by a CASS certified vendor, and addresses from part of Mailing List B that was ZIP + 4 coded with the mailer's CASS certified software. This mailing must be accompanied by a single Form 35XX, the supporting documents described in 324.33a (for Mailing List A) and the supporting documents described in 324.33b (for Mailing List B).

.34 *Obtaining CASS Certification.* Mailers must write or call the National Address Information Center at the following address to arrange for testing of their ZIP + 4 matching software.

CASS/ZIP + 4 MATCHING
NATIONAL ADDRESS INFORMATION CENTER
6060 PRIMACY PKY STE 101
MEMPHIS TN 38188–0001

Toll-free line: 1–800–238–3150
or in Tennessee: 1–800–233–0453

.35 *Obtaining ZIP + 4 Code Products.* Mailers may order the following ZIP + 4 products from the Postal Service:

a. *ZIP + 4 Base Tape and Quarterly Cumulative Updates.* This contains a master copy of the ZIP + 4 data base plus quarterly updates of all add, change, or delete actions that have occurred within the data base since the last release date.

b. *ZIP + 4 Base Tape and Monthly Transactions.* This contains a master copy of the ZIP + 4 data base plus monthly updates of all add, change, or delete actions that have occurred within the database since the last release date.

c. *Technical Guide.* This is a hard copy (paper) catalog that provides data formats and field definitions of the records in ZIP + 4 products. The guide automatically accompanies any ZIP + 4 product ordered. It may also be ordered independently for informational purposes.

d. *Ordering ZIP + 4 Tape Products.* The products in 324.35 a and b are available for the entire nation or for individual states and may be obtained by sending a written request and the appropriate payment to the following address:

ZIP + 4 PRODUCT ORDER
ADDRESS INFORMATION CENTER
6060 PRIMACY PARKWAY STE 101
MEMPHIS TN 38188–0008

For information on charges, call 1–800–238–3150. In the written request, mailers must specify the name of the tape product desired, whether the national tape is requested, or a list of the specific states requested. The written request must also specify which of the following magnetic tape characteristics are required:

1600 BPI or 6250 BPI
9 track
ASCII or EBCDIC
Reel or Cartridge at 38K BPI

324.4 Physical Mailpiece Requirements for Automation Compatibility

.41 Shape and Dimensions

.411 *Size.* Each piece in a mailing must meet the following requirements:

a. Its length must be at least 5 inches and not more than 11½ inches. This is the dimension parallel to the address.

b. Its height must be at least 3½ inches and not more than 6⅛ inches.

c. Its thickness must be at least .007 of an inch for pieces that do not exceed any of the following dimensions: 4¼ inches in height, 6 inches in length. Its thickness must be at least .009 of an inch for pieces greater than 4¼ inches in height or greater than 6 inches in length.

d. Its thickness must not exceed .250 of an inch.

Note: To qualify for postcard rates the size limits in 322.2a and b must be met (not smaller than 3½ by 5 inches, nor large than 4¼ by 6 inches, not less than .007 of an inch thick, and not greater than .0095 of an inch). All other requirements for post cards in 322 must also be met to quality for the postcard rates.

.412 *Shape.* Each piece in the mailing must be rectangular in shape.

.413 *Aspect Ratio.* For each piece in the mailing, the length of the piece divided by its height must not be less than 1.3 nor more than 2.5.

.42 *Weight.* The weight of a mailpiece, including its contents, must not exceed 2.5 ounces.

43 Mailpiece Construction

.431 *Enveloped or Secured Edges.* Except as provided in 324.432 and 324.433, each piece in a ZIP + 4 mailing must be:

a. Prepared in a sealed envelope (the perferred method of preparation), or

b. Sealed or glued on all four edges.

Note: Clasps, staples, string, buttons or other protrusions that may cause equipment jams and damage to the mail must not be used to seal mail.

.432 *Folded Self-Mailers and Double Postcards.* Single or multiple sheets folded into a letter-size self-mailer and double post cards need not comply with 324.431 if they are prepared so that the fold is on the longest edge and at the bottom of the mailpiece parallel to the address, and the top edge contains a minimum of two tabs used to hold the piece together. The first tab must be placed within one inch of the left edge of the mailpiece. The second tab must be placed within one inch of the right edge of the mailpiece. The tabs must not interfere with recognition of postage information, rate markings, or return addresses. See Exhibit 324.432. The tabs must be held in place by permanent gum or pressure sensitive non-removable adhesive. Cellophane tape is acceptable. Additional tabs may be placed on such mailpieces. As an alternative to the use of tabs, the top edge may be spot glued with a permanent glue or adhesive in the same manner and locations specified above for tabs, or the top edge may be continuously glued.

Note: Clasps, staples, string, buttons or other protrusions which may cause equipment jams and damage to the mail must not be used to tab or seal mail.

BILLING CODE 7710-12-M

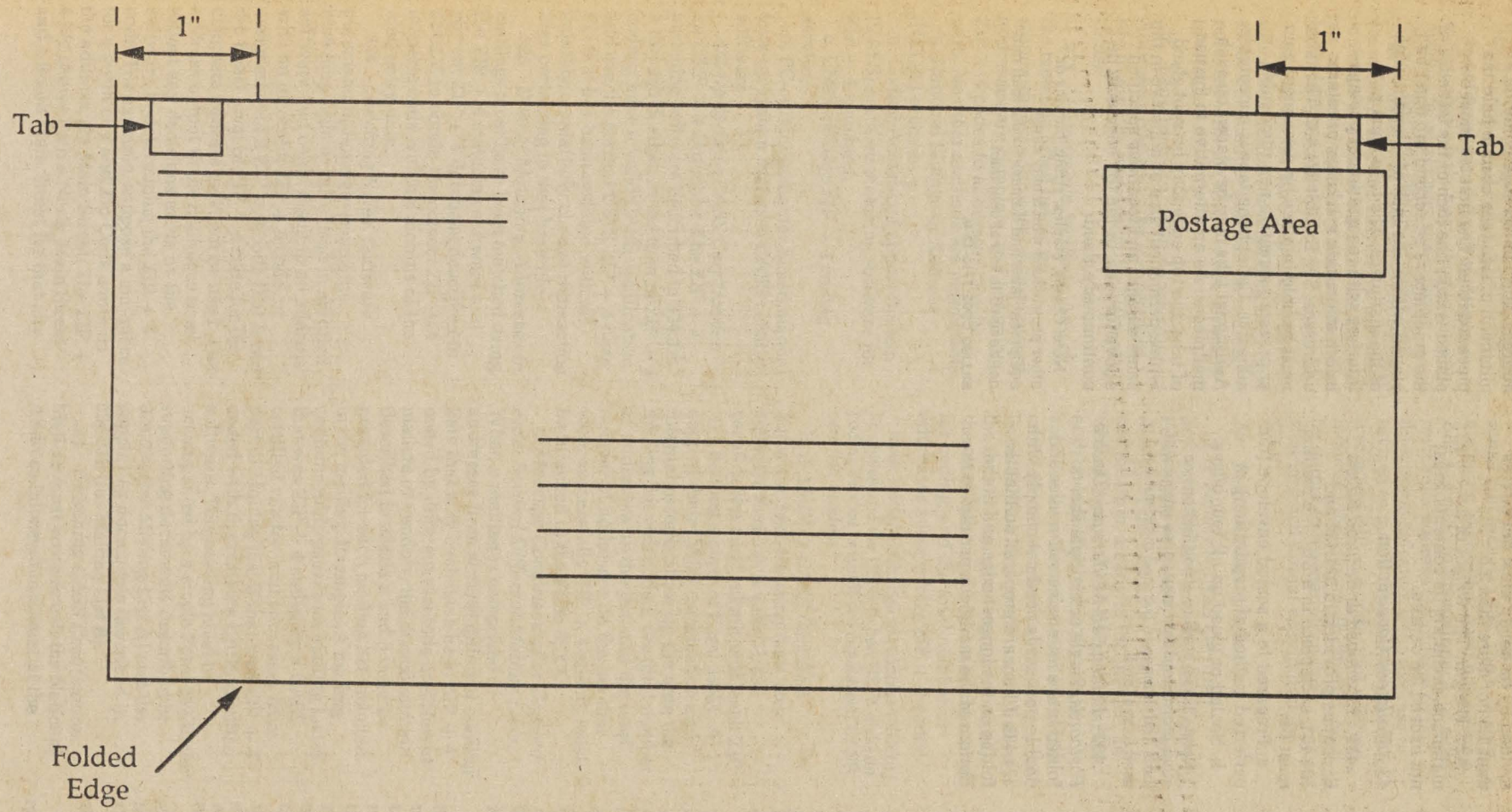


EXHIBIT 324.432 – Preparation of Folded Self-Mailers and Double Postcards

BILLING CODE 7710-12-C

.433 *Booklet-Type Mailpieces.* Multiple pages bound together to form a letter-size book or booklet-type mailpiece need not comply with 324.431 if prepared so that the bound edge or spine is on the longest edge and at the bottom of the mailpiece parallel to the address, and the top unbound edge of the mailpiece contains a minimum of two tabs used to hold the edges together. The first tab must be placed within one inch of the left edge of the mailpiece. The second tab must be placed within one inch of the right edge of the mailpiece. The tabs must not inerfere with recognition of postage information, rate markings, or return addresses. See Exhibit 324.433. The tabs must be held in place by permanent gum or pressure sensitive non-removeable adhesive. Cellophane tape is acceptable. Additional tabs may be placed on such mailpieces. As an alternative to the use of tabs, the pages may be spot glued at the top edge with a permanent glue or adhesive in the same manner and locations specified above for tabs, or the top edge may be continuously glued.

Note: Clasps, staples, string, buttons or other protrusions that may cause equipment jams and damage ot the mail must not be used to tab or seal mail.

BILLING CODE 7710-12-M

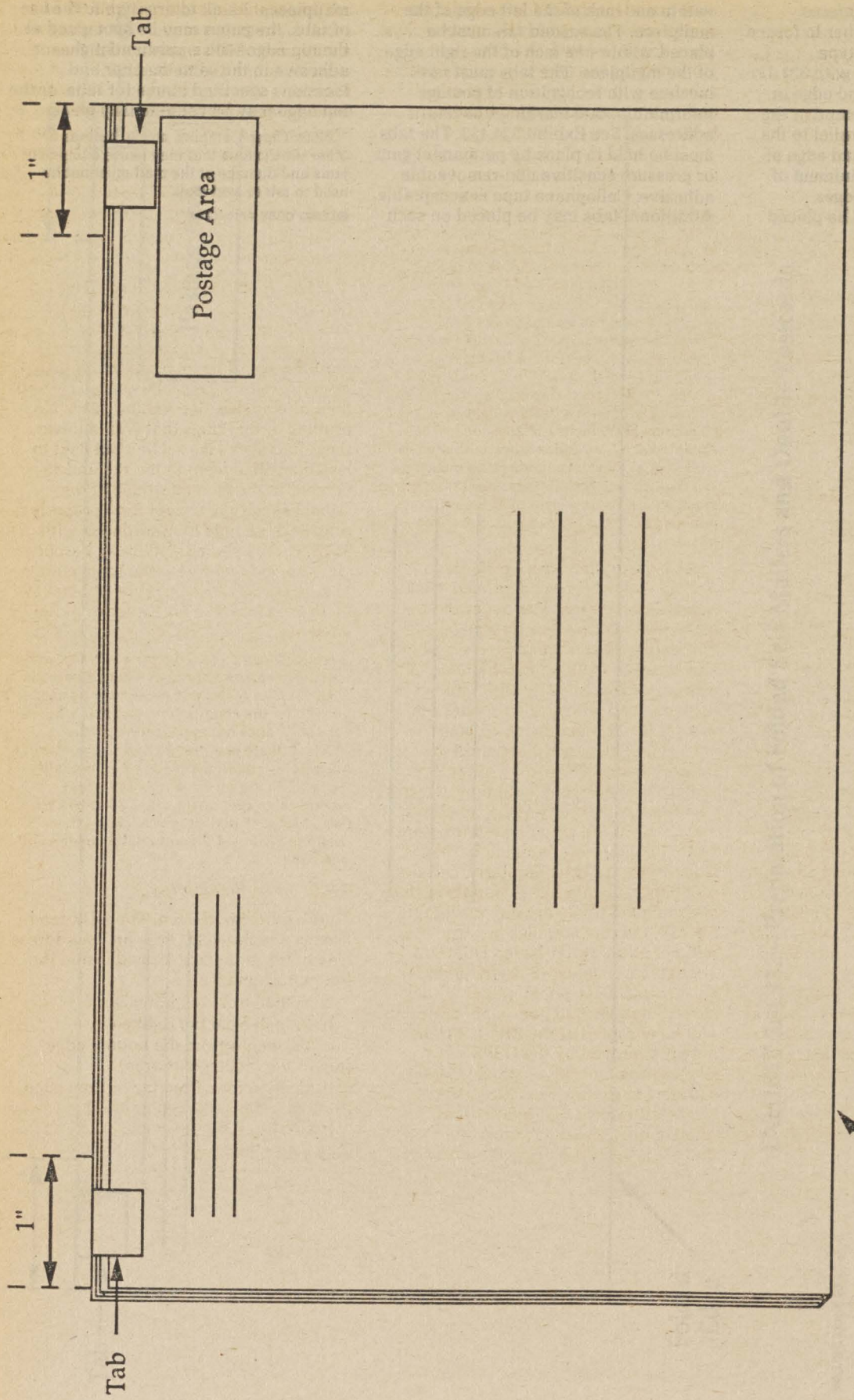


EXHIBIT 324.433 – Preparation of Booklet-Type Publications

BILLING CODE 7710-12-C

.434 Contents of Mailpiece.

a. *Flexibility.* The mailpiece and its contents must be reasonably flexible to ensure transport through automated equipment. The mailpiece, including its contents, must be able to bend easily when subjected to a transport belt tension of 40 pounds around an 11-inch diameter drum. Pens, pencils, keys, bottle caps and other rigid items are prohibited within mailpieces. Reasonably flexible items such as credit cards are permissible.

b. *Odd Shaped Items.* Odd-shaped items such as small coins and tokens that meet the flexibility criteria of 324.434a are permissible within mailpieces only if they are firmly affixed to part of the contents of the mailpiece and are wrapped in the envelope's other contents so that the shape of the mailpiece is streamlined to facilitate automated processing.

.435 *Adhesive on Address Labels and Stickers.* Address labels and other labels and stickers that are affixed to the outside of mailpieces must be affixed with permanent gum or pressure sensitive non-removable adhesive, and must be completely and uniformly affixed to the mailpiece.

Note: Pressure sensitive labels provided to mailers by the USPS for purposes of labeling packages to sortation levels are made with pressure sensitive non-removable adhesive and are permissible on the outside of mailpieces.

.44 Stiffness.

a. *Pieces Other than Cards.* Paper envelopes and paper used to prepare folded self-mailers must have a minimum basis weight of 20 pounds, using a 17 inch by 22 inch sheet size and 500 sheets. The front and back covers of unenveloped bound mailpieces such as catalogs, booklets and brochures, must meet the 20 to 20 pound minimum basis weight requirement. The front and back sheets of mailpieces formed of cut sheets that are glued on the outer edges must meet the 20 pound minimum basis weight requirement. See also the minimum thickness requirements in 324.411c.

b. *Cards.* Cards must be printed on paper stock meeting a standard industry basis weight of 75 pounds or greater, with none less than 71.25 pounds, for 500 sheets measuring 25 inches by 38 inches. The paper must be free from groundwood except when coated with a substance that adds to the paper's ability to resist an applied bending force.

Note: Cards exceeding 4¼ inches in height, 6 inches in length, or .0095 of an inch in thinckness are subject to postage at the applicable regular First-Class rate for matter other than cards. Cards exceeding 4¼ inches in height or 6 inches in length must also have a minimum thickness of .009 of an inch as described in 324.411c. In addition, since the importance of thickness and stiffness increases as card size increases, it is recommended that cards exceeding 4¼ inches in height or 6 inches in length be produced from stock with a higher basis weight. Recommended examples are: (1) a vellum Bristol with a basis weight of at least 80 pounds (22½ inches × 28½ inches, 550 sheet base); (2) an Index stock with a basis weight of at least 90 pounds (25½ inches ×30½ inches, 500 sheet base); or (3) an offset stock with a basis weight of at least 100 pounds (25 inches ×38 inches, 500 sheet base).

.45 *Ability to Accept U.S. Postal Service Ink Jet Printer Appliced Water-Based Barcode Ink.* The paper or other material used for the envelope or outermost sheet of the address side of ZIP + 4 rate mailings must allow printing of barcodes by USPS ink jet printers used with Optical Character Reader (OCR) equipment without smearing. The paper must allow water-based ink applied with ink-jet to dry within ½ of a second without smearing. Coatings, particularly glossy coatings, may prevent the water-based ink from USPS ink jet printer applied barcodes from drying quickly. Similarly, certain non-paper, plastic-like materials such as spun bonded olefin are not acceptable for ZIP + 4 rate mailings because they will not allow water-based USPS ink jet applied barcode ink to dry without smearing. Glossy paper, paper with glossy coatings and non-paper materials will be accepted at the ZIP + 4 rates only if approved by the USPS Engineering and Development Center, 8403 Lee Highway, Merrifield, VA 22082–8101. Such approval will be granted only if testing shows the material will allow water-based USPS ink jet applied ink to dry within ½ of a second. A written request for testing and a minimum of 50 sample mail pieces must be submitted to the USPS Engineers and Development Center for testing and approval at least 6 weeks prior to mailing at ZIP + 4 rates. A copy of the request for approval must be sent to the office of mailing along with one sample piece. A copy of the letter of approval must accompany the mailing.

Note: Poly-wrapped or poly-bagged materials are not accepted at ZIP + 4 rates.

324.5 *Barcode Clear Zone.* The barcode clear zone is the rectangular area formed inside the following boundaries: ⅝ of an inch from the bottom edge of the mailpiece, 4½ inch from the right edge of the mailpiece, and the bottom edge. See Exhibit 324.5. No printing or markings that would lower the reflectance (see section 324.65a) to less than 50 percent in the red and 45 percent in the green portions of the optical spectrum, except for a properly prepared barcode in accordance with 324.8, can be placed within the barcode clear zone. In addition, the bottom edge of address windows must be at least ½ of an inch from the bottom edge of the envelope.

Note: Pieces prepared with a window in the barcode clear zone through which a barcode printed on an insert will show may be used only under the conditions in 324.7. If a ZIP + 4 barcode does not appear through the window (there is either no barcode or there is a 5-digit barcode), the piece will not qualify for the ZIP + 4 rate and may not count toward the requirement in 365.22 or 366.11b that at least 85 percent of the pieces in a combined ZIP + 4 Presort mailing bear a ZIP + 4 code.

324.6 OCR Readability.

.61 *OCR Read Area.* The OCR read area is a rectangular area on the address side of the mailpiece formed inside the following boundaries:

a. ½ inch from the left edge.

b. ½ inch from the right edge.

c. 2¾ inches from the bottom edge (top of the rectangular area).

d. ⅝ of an inch from the bottom edge (bottom of the rectangular area).

See Exhibit 324.61.

BILLING CODE 7710-12-M

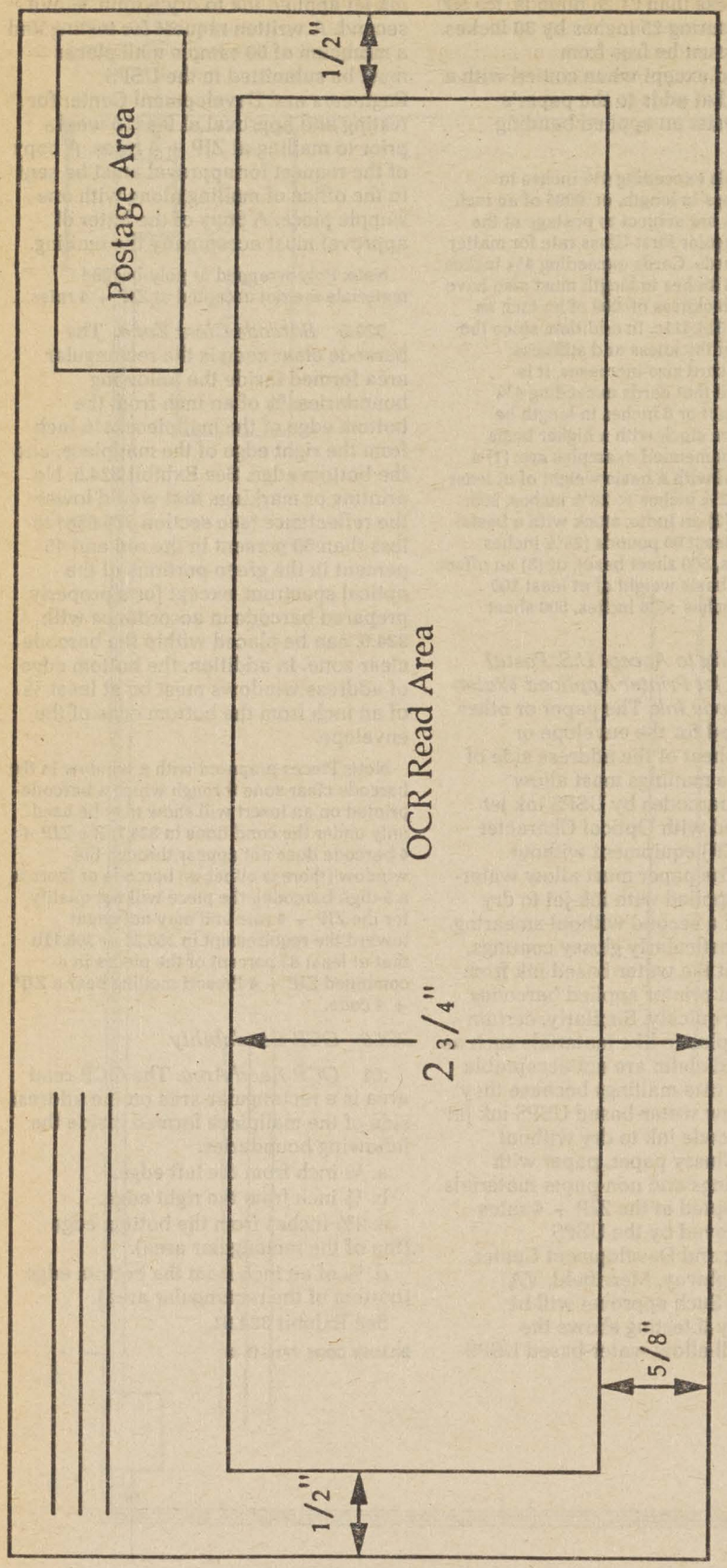


EXHIBIT 324.61 – OCR Read Area

BILLING CODE 7710-12-C

.62 *Placement of Address.* All lines of the address (exclusive of optional lines above the name of recipient line) must be contained within the OCR read area defined in 324.61. A uniform left margin must be maintained for the name and address information. See 324.31 for further requirements governing the address format and content.

.63 Limits for Non-Address Printing in OCR Read Area.

a. *Non-Address Printing or Markings.* There must be no markings, printing, or die cuts (except for the edges of address windows prepared in accordance with 324.66) in the OCR read area on either side of, or below, any of the address lines. Non-address printing or markings may appear within the OCR read area only if positioned above the address lines. This requirement also applies to addresses printed on inserts in window envelopes. For purposes of this section, address lines include the name of the recipient, firm name, building name, apartment or other secondary address unit numbers, house or building numbers, street, rural route number, highway contract route number, box number, city, state and ZIP Code. For purposes of this section, address lines exclude optional lines above the name of recipient line such as keylines and optional endorsement lines.

b. *Return Addresses.* Return address information must not appear within the OCR Read Area. The return address must appear in the top left corner of the mailpiece, and extend no further than 50 percent (half) of the length of the mailpiece to the right edge and no lower than 33.3 percent (one-third) of the height of the mailpiece from the top as shown in Exhibit 324.63b.

BILLING CODE 7710-12-M

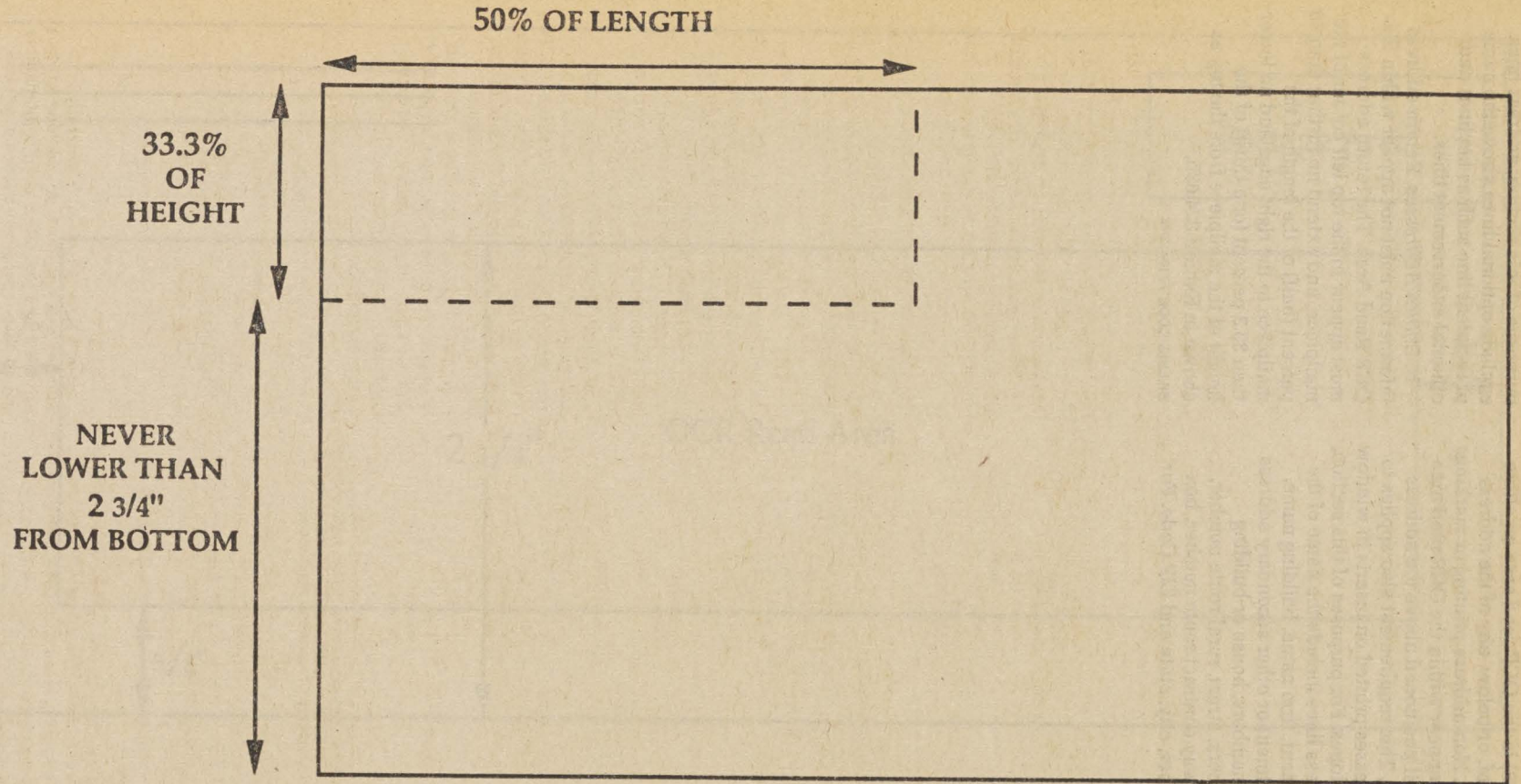


EXHIBIT 324.63b – Placement of Return Addresses

BILLING CODE 7710-12-C

c. *Mailer Endorsements.* Mailer endorsements concerning forwarding, return, and address correction services must not appear within the OCR Read Area. They must, however, appear below the return address (preferably, immediately below the return address) and meet all other requirements of 159.151 and 122.17.

.64 Optical Character Reader (OCR) Readable Type Required.

a. *General.* A type font that is readable by USPS Optical Character Reader (OCR) equipment is required. Type fonts that meet the requirements in 324.64 are considered OCR readable type fonts. Italic, script, artistic, cyrillic, other highly-stylized fonts, and dot matrix characters with separated matrix elements of .005 of an inch or more are not considered OCR readable. Block style typewriter and line printer type are normally OCR readable. The fonts identified in Exhibit 324.64a are acceptable and have been tested to meet the requirements of 324.64 b, d, e, and f.

b. *Machine Printed Addresses Required.* All lines of the delivery address must be machine printed. It is recommended that the entire address be printed in upper case characters.

c. *Print Quality.* A high degree of print quality must be maintained. Mailpieces bearing type that is smudged or faded or contains voids within character strokes or extraneous ink outside of character boundaries are not acceptable at ZIP + 4 rates.

The type styles in the left column have been tested on USPS OCRs and verified to have a high degree of readability. The styles in the right column have not been tested but are considered to be equivalent type faces by the National Composition Association*. Each horizontal grouping is considered to be a family of equivalent typefaces.

EXHIBIT 324.64A—OCR READABLE TYPE FONTS

Tested and verified	Similar styles
Century Light Schoolbook.	Century.
Elite	
Friz Quadrata	
Futura Medium	Airport.
	Alphatura.
	Contempra.
	Future.
	Photura.
	Sparta.
	Stylon.
	Techica.
	Techno.
	Tempo.
	Twentieth Century.
	Vogue.
Helios	Akzidenz-Grotesk Buch.
Helios Light	Aristocrat.
Helvetica	Claro
Helvetica Light	Europa Grotesk.
Helvetica Regular	Geneva.
Megaron Bold	Hamilton.
Megaron Medium	Newton.
Triumverate	Sonoman Sanserif.
Triumverate Bold	Spectra.
Triumverate Regular	Vega.
Honeywell H200	
IBM 1403	
IBM 1428	
Manifold 72	
Koronna Regular	Aquarius.
	Corona.
	Crown.
	Koronna.
	News No. 3.
	News No. 5.
	News No. 6.
	Nimbus.
	Royal.
News Gothic	Alpha Gothic.
Trade Gothic	Classified News.
Newtext Regular Condensed.	
OCR-A	
OCR-B	
Optima	Athena.
	Chelmsford.
	Musica.
	October.
	Omega.
	Optimist.
	Oracle.
	Roma.
	Theme.
	Zenith.
Pica	
Standard Typewriter	
Stymie Medium	Alexandria.
	Beton.
	Cairo.
	Karnak.
	Memphis.
	Pyramid.
	Rockwell.
Univers	Alphavers.
Univers 5	Eterna.
Univers Medium	Galaxy.
	Kosmos.
	Versatile.
Universal	

EXHIBIT 324.64A—OCR READABLE TYPE FONTS—Continued

* Equivalent typefaces were taken from a book entitled "TYPEFACE ANALOGUE" by W. F. Wheatley for the National Composition Association.

d. *Character Height.* The height of address characters must be no less than 80 mils nor more than 200 mils. (A mil equals .001 of an inch.) Ten or twelve point plain style of type is recommended. (A point equals .0138 of an inch.)

e. *Character Stroke Width.* The width of address character strokes must be uniform and no less than 10 mils (¾ point) nor more than 30 mils (2 points).

f. *Character Height to Width Ratio.* The height of address characters divided by their width must fall between 1.1 and 1.7. A mid-range height to width ratio of about 1.4 to 1 is recommended (the height divided by the width is 1.4).

g. *Space Between Characters.* A clear vertical column of at least 10 mils (¾ point) and no more than 40 mils (3 points) must exist between each character of the address.

h. *Space Between Words.* A clear vertical space no less than the width of one full "em" character (e.g., capital M) or more than the width of five full characters must exist between words of the address. (This includes spacing between the state abbreviation and the ZIP + 4 code.)

i. *Space Between Lines of the Address.* Spacing between lines of the address must be uniform and no less than 30 mils (two points) or more than the height of two full characters. (Maximum of 400 mils or 29 points.)

j. *Skew of Address Lines.* The lines of the address must not be skewed (slanted) more than five degrees relative to the bottom edge of the mailpiece.

.65 Reflectance Requirements.

a. *Background Reflectance.* The material on which the delivery address will appear (envelope, card, insert material, or outermost sheet) must produce a background reflectance of at least 50 percent in the red and 45 percent in the green portions of the optical spectrum. (White and pastel colors generally satisfy this requirement.) These reflectance measurements must be made with a USPS envelope reflectance meter.

b. *Print Contrast Ratio—Contrast Between the Ink Used in the Address and the Background of the Mailpiece.* A print contrast ratio greater than or equal to 40 percent in both the red and green portions of the optical spectrum is required. If glassine windows are used the print contrast ratio must be greater than or equal to 45 percent. The print contrast ratio is determined in the following manner:

$$PCR = \frac{\text{Reflectance of the background}}{\text{Reflectance of the background}} - \frac{\text{Reflectance of the ink}}{\text{Reflectance of the background}} \times 100 = \%$$

Note: This requirement is generally satisfied by using black or dark blue ink on a white background. Other color combinations should be measured to ensure compliance with the minimum print contrast ratio.

c. *Print Contrast Ratio—Opacity.* Envelope material, insert material as

viewed through an envelope window, or the outermost sheet of a mailpiece, must have sufficient opacity to prevent non-address printing from "showing through" to the extent that it will affect OCR processing. The print contrast ratio of the non-address print that shows through in the OCR read area and barcode clear zone must not exceed 15 percent when measured in the red and green spectra. (See section 324.65b for an explanation of how to compute the print contrast ratio.)

d. *Print Contrast Ratio—Dark Fibers and Background Patterns.* The material on which the delivery address will appear (envelope, card, insert material, or outermost sheet) must not contain dark fibers or background patterns (checks, etc.) that produce a print contrast ratio of more than 15 percent when measured in the red and green spectra. If material on which the delivery address will appear is printed in a "halftone screen" it must not contain fewer than 200 lines per inch or be printed with more than a 20 percent screen (dot size).

.66 Additional Requirements for Envelopes with Address Windows and Their Inserts.

a. *Clear Space Required Between Address and Address Window Edges.* A clear space of at least ⅛ of an inch must be left between the address block and the top, bottom, and side edges of the window. This clear space must exist, even when the insert is moved to its full limits in each direction within the envelope. The bottom edge of the address window must not extend more than ⅛ of an inch into the barcode clear zone (see 324.5).

b. *Window Covers.* Address windows, if covered, must be covered with a non-tinted clear or transparent material glued securely on all edges. The recommended window cover material is cellophane or polystyrene. The address, as viewed through the window material, must meet the minimum print contrast ratios described in 324.65. Certain types of glassine material interfere with OCR readability. Therefore, glassine may be used for window cover material only if the address information measured through the glassine meets a print contrast ratio of 45 percent (as measured by 324.65b).

324.7 Prebarcoded Mail at ZIP + 4 Rates

.71 General Requirements

a. *Pieces Prepared With ZIP + 4 Barcodes.* Mailers may elect to enter at ZIP + 4 rates, mailings that have been prepared with ZIP + 4 barcodes that meet the barcoding specifications listed in 325.51. Mailpieces that bear a correct ZIP + 4 barcode need not bear a numeric ZIP + 4 code in the address, and need not meet the OCR readability requirements in 324.6 to qualify for ZIP + 4 rates. Furthermore, mailers may comply with the addressing requirements in 325.4 instead of the requirements in 324.3. All other requirements of 324 must be met.

b. Pieces Prepared With Five-Digit Barcodes.

(1) *General.* ZIP + 4 Presort rate mailings prepared with ZIP + 4 barcodes and prepared under the provisions of 365 or 366 may include pieces with 5-digit barcodes. All pieces bearing a 5-digit barcode must meet the requirements of 324.2 through 324.5, except that mailers may meet the addressing requirements in 325.4 instead of the requirements in 324.3. The 5-digit barcode must meet the specifications in 325.51c through h and 325.52b. The 5-digit barcode must also meet the requirements in 324.71b(2) or b(3).

(2) *Five-Digit Barcodes Printed Directly on Mailpieces.* The location of the barcode must be as described in 325.51b except that the left-most bar of the barcode must be located between 3-7/8 inches and 4 inches from the right edge of the mailpiece (see Exhibit 325.52c(1)). If such pieces also bear a numeric ZIP + 4 code in the address and meet the standardized address requirements in 324.3 and the OCR readability requirements in 324.6, they may qualify for the ZIP + 4 Presort rate or for the nonpresorted ZIP + 4 rate, and may count toward the 85 percent ZIP + 4 requirement in 365.22 or 366.11b. Otherwise, they are eligible only for Presorted First-Class or single-piece First-Class rates.

(3) *Five-Digit Barcodes Printed on Inserts.* Five-digit barcodes printed on inserts that will appear through a window in the barcode read area must be located in accordance with either 325.51h(2) or 325.52c(1). Such pieces cannot qualify for the ZIP + 4 Presort rate nor, if in the residual portion, for the nonpresorted ZIP + 4 rate, and may not count toward the 85 percent ZIP + 4 requirement in 365.22 or 366.11b. They will not qualify for the ZIP + 4 rates even if they bear a numeric ZIP + 4 code in the address, meet the standardized address requirements in 324.3, and the OCR readability requirements in 324.6.

c. *Pieces Prepared Without Barcodes.* ZIP + 4 Presort rate mailings prepared with ZIP + 4 barcodes and prepared in accordance with 365 or 366 may include pieces without any barcodes. Each piece without a barcode must meet the requirements in 324.2 through 324.5. If such pieces also bear a correct numeric ZIP + 4 code in the address, meet the complete and standardized address requirements in 324.3, the OCR readability requirements in 324.6, and do not bear a window in the barcode clear zone, they will qualify for the ZIP + 4 Presort rate, or, if in the residual portion, the nonpresorted ZIP + 4 rate. Such OCR readable pieces with complete and standardized addresses prepared without windows in the barcode clear zone may also count toward the 85 percent ZIP + 4 requirement in 365.22 or 366.11b. However, pieces bearing a window in the barcode clear zone that is blank may not qualify for any ZIP + 4 rates, nor may they count toward the 85 percent ZIP + 4 requirement in 365.22 or 366.11b, even if they bear a numeric ZIP + 4 code in the address, meet the standardized address requirements in 324.3, and meet the OCR readability requirements in 324.6.

PART 325—ZIP + 4 BARCODED RATE

7. In 325.11a, delete the words "324.72 through 324.77, and".

8. Revise 325.11b to read:

b. Meet the physical requirements for automation compatibility in 324.41 through 324.44.

9. Revise 325.121a to read as follows:

a. *ZIP + 4 Barcoded Rate.* A piece in a 5-digit package will qualify for the ZIP + 4 Barcoded rate if it bears a correct ZIP + 4 barcode prepared in accordance with 325.51.

10. In 325.121b(1) change the phrase "and it meets the barcode clear zone and OCR readability requirements in 324.5 and 324.6." to "meets the standardized address format requirements in 324.3, and the barcode clear zone and OCR readability requirements in 324.5 and 324.6."

11. In 325.121b(2), change the phrase "and it meets the barcode clear zone and OCR readability requirements of 324.5 and 324.6" to "it meets the standardized address format requirements of 324.3; and it meets the barcode clear zone and OCR readability requirements in 324.5 and 324.6".

12. In the note under 325.121b(2), change the phrase "and meet the OCR readability and other requirements for the ZIP + 4 rate." to "and meet the OCR readability, standardized address format, and other requirements for the ZIP + 4 rates."

13. In 325.121c(2), change the phrase "and it does not meet the barcode clear zone and OCR readability requirements of 324.5 and 324.6 necessary to qualify for the ZIP + 4 Presort rate." to "and it

does not meet the standardized address format requirements in 324.3, or the barcode clear zone and OCR readability requirements of 324.5 and 324.6 necessary to qualify for the ZIP + 4 Presort rate.

14. Revise the note under 325.121c(3) to read as follows:

Note: Such a piece is ineligible for the ZIP + 4 Presort rate even if it bears a ZIP + 4 code in the address and meets the OCR readability, standardized address format, and other ZIP + 4 preparation requirements.

15. In 325.122a(1) delete the reference "324.72 through 324.77, and".

16. Revise the note under 325.122a(1) to read as follows:

Note: When a piece bears a correct ZIP + 4 barcode, it is not necessary that a numeric ZIP + 4 code appear in the address, nor is it necessary for the piece to meet the standardized address format requirements in 324.3 or the OCR readability requirements in 324.6 to qualify for the ZIP + 4 Presort rates.

17. In 325.122a(2) change the phrase "and it meets the barcode clear zone and OCR readability requirements in 324.5 and 324.6." to "it meets the standardized address format requirements in 324.3; and it meets the barcode clear zone and OCR readability requirements of 324.5 and 324.6.

18. In the note under 325.122(3) change the phrase "and meet the OCR readability and other requirements for the ZIP + 4 rate." to "and meet the standardized address, OCR readability and other requirements for the ZIP + 4 rate."

19. In 325.122b(2), change the phrase "and it does not meet the barcode clear zone and OCR readability requirements" to "and it does not meet the standardized address format requirements in 324.3 or the barcode clear zone and OCR readability requirements".

20. Revise the note under 325.122b(3) to read as follows:

Note: Such a piece is ineligible for the ZIP + 4 Presort rate, even if it bears a ZIP + 4 code in the address and meet the standardized address format, OCR readability, and other ZIP + 4 preparation requirements.

21. In 325.123a(1), delete the words "324.72 through 324.77, and".

22. In 325.123a(2), change the phrase "and it meets the barcode clear zone and OCR readability requirements" to "it meets the standardized address format requirements in 324.3; and it meets the barcode clear zone and OCR readability requirements".

23. In 325.123a(3), change the phrase "and it meets the barcode clear zone and OCR readability requirements" to "it meets the standardized address format requirements in 324.3; and it meets the barcode clear zone and OCR readability requirements".

24. In the note under 325.123a(3), change the phrase "and meet the OCR readability" to "and meet the standardized address format, OCR readability,".

25. In 325.123b (2), change the phrase "and it does not meet the barcode clear zone and OCR readability requirements" to "and it does not meet the standardized address format requirements in 324.3, or the barcode clear zone and OCR readability requirements".

26. In the note under 325.123b (3), change the phrase "and meets the OCR readability and other ZIP + 4 preparation requirements." to "and meets the standardized address format, OCR readability, and other ZIP + 4 preparation requirements."

27. Delete the title and first two sentences of 325.3 and replace them with the following. The remainder of this section (the exception and the note) is unchanged.

325.3 *Required Percentage of ZIP + 4 Barcoded and Completely Addressed Pieces.* At least 85 percent of the total pieces in each mailing must bear a correct ZIP + 4 barcode prepared in accordance with 325.51 and meet the complete address requirements of 324.4. This 85 percent requirement is applied to the total number of pieces in all presort levels in the mailing regardless of the rate claimed for an individual piece. The correct ZIP + 4 barcode is the one that represents the finest level (depth) of ZIP + 4 code listed in the current USPS ZIP + 4 database for the complete address, as defined in 325.4. The addressing, ZIP + 4 matching, and documentation requirements of 325.4 must also be met. Each piece, whether or not it bears a ZIP + 4 barcode, must bear either correct numeric ZIP + 4 code or the correct numeric 5-digit ZIP Code in the address.

28. Delete current 325.41 and 325.42. Renumber current 325.43 through 325.45 as 325.7 through 325.9.

29. Insert new 325.4 to read as follows:

325.4 Accuracy of ZIP + 4 Barcoding—Addressing and ZIP + 4 Database Matching Requirements.

.41 Complete Addresses Required

a. *General.* To ensure accurate matching of the address to the finest level of ZIP + 4 code, as required in section 325.3 complete addresses are required on all pieces in a ZIP + 4 barcoded rate mailing that bear a ZIP + 4 barcode. A complete address is one which contains all delivery address elements, such as firm name, address (street) number, predirectional, street name, suffix, post directional, secondary address unit designator and number (e.g. APT 202, STE 100, etc.) or rural route number and box number (e.g. RR5 Box 10), highway contract route and box number (e.g. HC 4 Box 45), or post office box number (e.g. PO BOX 458), necessary to obtain an exact match with the ZIP + 4 file currently in effect to the finest level of ZIP + 4 code. A complete address must also contain the correct city and state. Only approved last line (city or place) names as described in the city-state file currently in effect may be used. The address on each piece in the mailing must also bear either the correct 5-digit ZIP Code or the correct ZIP + 4 code. Pieces with addresses that do not meet the complete address requirements do not qualify for ZIP + 4 or ZIP + 4 barcoded rates and further, must not show a ZIP + 4 code in the address or a ZIP + 4 barcode on the mailpiece.

b. *Secondary Address Units.* Firm names and secondary address unit designators and numbers that show the specific apartment, building, floor, suite, unit, room, department, etc., are required to appear in the address on the mailpiece where such firm names or unit designators are necessary to obtain a match with the finest level of ZIP + 4 code in the ZIP + 4 database. In instances where a firm name or secondary address unit number is needed to obtain the finest level of ZIP + 4 code but is not known, the address that appears on the mailpiece must not bear a ZIP + 4 code and the piece must not bear a ZIP + 4 barcode. This means that alternative or default ZIP + 4 codes for a building are not acceptable on mailpieces entered at the ZIP + 4 barcoded rates or the ZIP + 4 Presort or nonpresorted ZIP + 4 rates when finer ZIP + 4 codes for apartment ranges, floors, suites, firms, etc., within that building are listed in the USPS ZIP + 4 database.

Note: To enhance delivery of mailpieces, mailers should make every effort to place secondary address unit designators and numbers on mailpieces where they exist for an address, even when secondary address unit numbers (or ranges of numbers) are not contained in the ZIP + 4 file for that street address and therefore are not needed to obtain a match with the finest level of ZIP + 4 code.

c. *Rural Routes and Highway Contract Routes.* A standardized and complete address for rural routes and highway contract routes contains the rural route or highway contract route number and box number necessary to obtain an exact match with the ZIP + 4

file currently in effect to the finest possible level of ZIP + 4 code. The rural route or highway contract route box number must appear in the address on the mailpiece when it is necessary to obtain the finest level of ZIP + 4 code. In instances where a box number is needed to obtain the finest level of ZIP + 4 code but is not known, the address that appears on the mailpiece must not bear a ZIP + 4 code and the piece must not bear a ZIP + 4 barcode. This means that alternative or default ZIP + 4 codes for the route are not acceptable on mailpieces entered at the ZIP + 4 barcoded rates or the ZIP + 4 Presort or nonpresorted ZIP + 4 rates, when finer ZIP + 4 codes for specified box number ranges within that route are listed in the USPS ZIP + 4 database.

Note: To enhance delivery of mailpieces, mailers should make every effort to place box numbers for rural routes and highway contract routes on mailpieces where they exist for an address, even when box numbers (or ranges of box numbers) are not contained in the ZIP + 4 file for that route and therefore are not needed to obtain a match to the finest level of ZIP + 4 code.

d. *Post Office Box Addresses.* Post office box addresses must contain a post office box number that can be exactly matched with the ZIP + 4 file currently in effect.

.42 Requirements for Obtaining Correct ZIP + 4 Barcodes and Determining if Addresses are Complete.

.421 *Permissible Methods.* Any of the methods listed below for obtaining correct ZIP + 4 coding information to apply barcodes (and/or correct ZIP + 4 numeric codes if mailers wish to obtain the ZIP + 4 Presort or Nonpresorted ZIP + 4 rates on non-ZIP + 4 barcoded pieces as described in 325.12) and for determining if addresses are complete may be used. No other methods are permissible.

a. National Change of Address (NCOA) process.

b. Coding Accuracy Support System (CASS) certified matching software for ZIP + 4 matching.

c. USPS diskette ZIP + 4 coding service.

d. PC or mini-computer based manual look-up system that uses CASS certified software.

.422 *Up-to-Date CASS Certification and ZIP + 4 Database.* The ZIP + 4 matching software described in 325.421 a through d, must, at the time of ZIP + 4 coding, have a valid CASS certification and use the current USPS ZIP + 4 base file that has been updated with all monthly or quarterly change transaction files pertaining to that base file.

.423 *Date of Matching.* Addresses in mailings must have been matched using the ZIP + 4 matching software and current ZIP + 4 database described in 325.422 to obtain the correct ZIP + 4 barcode (and correct ZIP + 4 numeric code if mailers wish to obtain the ZIP + 4 Presort or Nonpresorted ZIP + 4 rates on non-ZIP + 4 barcoded pieces as described in 325.12) within 6 months of the mail entry date.

.424 *Matching Rules.* Software parameter options governing the matching logic or rules used in certified software that could result in applying an incorrect ZIP + 4 barcode to the mailpiece, or a ZIP + 4 barcode that does not represent the finest level of ZIP + 4 code for the address must not be used. If the address output to the address can be changed, any decisions made by the software in determining the ZIP + 4 code must be output to the address. For example, if a mailpiece for a given city and ZIP Code contains the address 123 Main Street, and the ZIP + 4 file shows both a North Main Street and a South Main Street for that city, and each has a street address number range that includes 123, the software matching logic either must not assign a ZIP + 4 code and ZIP + 4 barcode to the mailpiece (since this is not a complete address as required in 325.41), or must assign one of the directionals to the address. If a directional is assigned to the address, the address output to the mailpiece must include the directional and the barcode printed on the mailpiece must be the correct one for the directional printed on the mailpiece. If the address output to the mailpiece cannot be changed, such as in OCR processing, the matching logic used must prevent application of a ZIP + 4 barcode to mailpieces with an incomplete or inaccurate address.

.43 Required Documentation.

a. *A Vendor's CASS Certified Software.* Mailers must submit a copy of Form 35XX with each ZIP + 4 barcoded rate mailing. A copy of the vendor's CASS certification, a copy of the invoice, as well as a copy of the job specification and/or output report(s) that show services were received from the CASS certified vendor must be attached to the Form 35XX. The documents must show the date the services were performed, the total number of addresses submitted for coding, and the total number of addresses successfully ZIP + 4 coded and/or ZIP + 4 barcoded.

Note: National Change of Address (NCOA) licensees and the USPS (when USPS diskette coding service is used) are considered CASS certified vendors.

b. *A Mailer's CASS Certified Software.* Mailers using their own software that has a valid CASS certification must submit with each ZIP + 4 barcoded rate mailing a copy of Form 35XX. A copy of their CASS certification and internal records showing the date the mailing list was coded, the total number of addresses on the list, and the total number of addresses on the list that were successfully ZIP + 4 coded and/or ZIP + 4 barcoded, must be attached to the Form 35XX.

c. *Mailings Comprised of or Derived from Several Different Mailing Lists.* When a mailing is comprised of addresses from several different mailing lists that may each have been ZIP + 4 coded and/or ZIP + 4 barcoded by different methods or different mailers or vendors, the documentation described in 325.43a and b must be provided for each mailing list included in the mailing. Example: A mailing contains addresses from Mailing List A that was ZIP + 4 coded by a CASS certified vendor, and addresses from part of Mailing List B that was ZIP + 4 coded with the mailer's CASS certified software. This mailing must be accompanied by a single Form 35XX, the supporting documents described in 325.43a (for Mailing List A) and the supporting documents described in 325.43b (for Mailing List B).

.44 *Obtaining CASS Certification.* Mailers must write or call the National Address Information Center at the following address to arrange for testing of their ZIP + 4 matching software.

CASS/ZIP + 4 MATCHING
NATIONAL ADDRESS INFORMATION CENTER
6060 PRIMACY PKY STE 101
MEMPHIS TN 38188–0001

Toll-free line: 1–800–238–3150
or in Tennessee: 1–800–233–0453

.45 *Obtaining ZIP + 4 Code Products.* Mailers may order ZIP + 4 products as described in 324.35.

30. Delete 325.51a.

31. Renumber and retitle 325.51b, "Inserts" as 325.51h, "Barcodes on Inserts."

32. Renumber and retitle 324.72, "ZIP + 4 Barcodes" as 325.51a "ZIP + 4 Barcode Makeup." Within new 325.51a, change the references from "Exhibit 324.72" to "Exhibit 325.51a."

33. Insert new 325.51b through d as follows:

b. *Barcode Location.* The location of the ZIP + 4 barcode must be on the address side of the mailpiece and within a clear space known as the "barcode clear zone," which must be free of any

printing other than the barcode. The barcode clear zone extends ⅝ of an inch from the bottom and at least 4½ inches from the right edge of the mailpiece. Within the barcode clear zone, the left-most bar of the barcode must be located between 3¼ inches and 4 inches from the right edge of the mailpiece (the horizontal position of the barcode). The vertical position of the barcode must be in the area between 3/16 of an inch and 7/16 of an inch from the bottom of the mailpiece. The bottom of the bars must be positioned ¼ of an inch (plus or minus 1/16 of an inch) from the bottom edge of the mailpiece (see Exhibit 325.51b). These horizontal and vertical placement limits form the rectangular "barcode read area." The entire barcode must be completely contained within the barcode read area. See Exhibit 325.51b. ZIP + 4 barcodes may be printed on inserts that will appear through a window on an envelope provided the window on the envelope and the barcode on the insert meet the specifications in 325.51g.

Note 1: Upon deployment of Wide Area Barcode Readers (WABCRs) which is expected to occur some time in 1991, printing and markings in the barcode clear zone will be acceptable provided they do not lower the background reflectance to less than 50 percent in the red and 45 percent in the green portion of the optical spectrum.

Note 2: Upon deployment of the Advanced Bar Code (ABC) system, the barcode clear zone and read area will be moved ¼ of an inch further to the left for those mailers printing barcodes in the lower right corner of the mailpiece. That is, the barcode clear zone will extend 4¾ inches from the right edge of the mailpiece, and the left-most bar of the barcode must begin between 4¼ and 3½ inches from the right edge of the mailpiece.

c. *Barcode Dimensions and Spacing.* A full bar must be .125 ± .010 of an inch in height. A half bar must be .050 ± .010 of an inch in height. The width of all bars must be equal and must be .020 ± .005 of an inch. Horizontal spacing of the bars must be 22 ± 2 bars per inch. Pitch (a bar and a space) must be at least .0416 of an inch and no greater than .050 of an inch. The spacing (a clear vertical column) between bars must never be less than .012 of an inch.

d. *Background Reflectance.* The material on which the barcode will appear (envelope, card, insert material, or outermost sheet) must produce a background reflectance of at least 50 percent in the red and 45 percent in the green portions of the optical spectrum. (White and pastel colors generally satisfy this requirement.) The reflectance measurements shall be made with a USPS envelope reflectance meter.

19. Renumber Exhibit 324.72 as Exhibit 325.51a.

20. Renumber Exhibit 324.73 as Exhibit 325.51b.

21. Renumber and retitle 324.75, "Background Contrast" as 325.51e, "Background and Barcode Reflectance Difference."

22. Renumber 324.76 and 324.77 as 325.51f and 325.51g.

23. Add new 325.51h(1)(e) as follows:

(e) The top edge of the window must be at least ⅝ of an inch from the bottom of the mailpiece.

24. Delete 325.51h(2)(b). Renumber 325.51h(2)(c) as 325.51h(2)(b).

25. Insert note under new 325.51h(2)b as follows:

Note: Upon deployment of Wide Area Barcode Readers (WABCRs) which is expected to occur some time in 1991, printing and markings in the barcode clear zone will be acceptable provided they do not lower the background reflectance to less than 50 percent in the red and 45 percent in the green portion of the optical spectrum.

26. Delete 325.51b(2)(d) and insert new 325.51g(2) (c) and (d) as follows:

(c) The barcode must meet the location requirements in 325.51b. These location requirements must be met when the insert is moved to any of its limits within the envelope.

(d) A clear space of at least ⅛ of an inch must be left between the barcode and the top, left and right edges of the window. (There must be no bottom edge to the window as described in 325.51h(1)(b).) This clear space must exist, even when the insert is moved to any of its limits within the envelope.

27. In 325.52a, change the reference "324.74 through 324.77" to "325.51 c through h."

28. In 325.52b, change the references "324.72" to "325.51a."

29. In 325.52c(1), change the reference "324.73" to "325.51b."

30. In 325.52c(2), change the reference "325.51b(2)" to "325.51h(2)."

31. In the note under 325.52c(2), change the phrase "and meet the OCR readability" to "and meet the standardized address format, OCR readability".

32. Insert new 325.6 to read as follows:

325.6 *Physical Requirements.* Each piece in the mailing must meet the physical requirements for automation compatibility in 324.41 through 324.44. In addition, poly-wrapped or poly-bagged pieces are not permissible at ZIP + 4 barcoded rates.

PART 361—ADDRESSING

33. Add the following sentence to the end of 361.5:

See 324.2 and 324.3 for a further definition of a correct ZIP + 4 code and further requirements concerning addressing for ZIP + 4 rate mailings.

34. In 361.6 change the reference "324.71c through 324.77 and 325.51b," to "325.51". Add the following sentence to the end of this section: See 325.3 and 325.41 for a further definition of correct ZIP + 4 code, correct ZIP + 4 barcode, and further requirements concerning addressing for ZIP + 4 barcoded mailings.

PART 364—ZIP + 4 BARCODED FIRST-CLASS MAIL

35. In the exception under 364.411, change the reference "324.72 through 324.77, and 325.51" to "325.51."

36. In 364.412b(1), change the reference "324.72 through 324.77, and 325.51" to "325.51."

37. In 364.412b(2)(a), insert the phrase "meet the standardized address format requirements in 324.3," after the phrase "contain the correct ZIP + 4 code in the address,".

38. In 364.412b(2)(b), insert the phrase "meet the standardized address format requirements in 324.3," after the phrase "contain the correct ZIP + 4 code in the address,".

39. In the note under 364.412b(2)(b), insert the phrase "meet the standardized address format requirements," after the phrase "even if they bear a numeric ZIP + 4 code in the address,".

40. In 364.412b(3)(b), change the phrase "and do not meet the barcode clear zone and OCR readability requirements" to "and do not meet the standardized address format requirements in 324.3, or the barcode clear zone and OCR readability requirements".

41. In 364.412c(1) change the reference "324.72 through 324.77, and 325.51" to "325.51".

42. Change the note in 364.412c(1) to read as follows:

Note: When a piece bears the correct ZIP + 4 barcode, it is not necessary that a numeric ZIP + 4 code appear in the address, nor is it necessary to meet the standardized address format requirements in 324.3 or the OCR readability requirements in 324.6, to qualify for the ZIP + 4 Presort rates.

43. In 364.412c(2)(a), insert the phrase "meet the standardized address format requirements in 324.3," after the phrase "contain the correct ZIP + 4 code in the address,".

44. In 364.412c(2)(b), insert the phrase "meet the standardized address format requirements in 324.3," after the phrase "contain the correct ZIP + 4 code in the address,".

45. In the note under 364.412c(2)(b), change the phrase "even if they bear a numeric ZIP + 4 code in the address and meet the OCR readability and other requirements for the ZIP + 4 rate" to

"even if they bear a numeric ZIP + 4 code in the address and meet the standardized address format, OCR readability and other requirements for the ZIP + 4 rate".

46. In 364.412c(3)(b), change the phrase "and do not meet the barcode clear zone and OCR readability requirements" to "and do not meet the standardized address format requirements in 324.3, or the barcode clear zone and OCR readability requirements".

47. In 364.412d(1), change the reference "324.72 through 324.77, and 325.51" to "325.51".

48. Change the note in 364.412d(1) to read as follows:

Note: When a piece bears the correct ZIP + 4 barcode, it is not necessary that a numeric ZIP + 4 code appear in the address, nor is it necessary to meet the standardized address format requirements in 324.3 or the OCR readability requirements in 324.6, to qualify for the ZIP + 4 Presort rates.

49. In 364.412d(2)(a), insert the phrase "meet the standardized address format requirements in 324.3," after the phrase "contain the correct ZIP + 4 code in the address,".

50. In 364.412d(2)(b), insert the phrase "meet the standardized address format requirements in 324.3," after the phrase "contain the correct ZIP + 4 code in the address,".

51. In the note under 364.412d(2)(b), change the phrase "and meet the OCR readability and other ZIP + 4 requirements." to "and meet the standardized address format, OCR readability, and other ZIP + 4 requirements.".

52. In 364.412d(3)(b), change the phrase "and do not meet the barcode clear zone and OCR readability requirements" to "and do not meet the standardized address format requirements in 324.3, or the barcode clear zone and OCR readability requirements".

53. Change the note under 364.412d(3)(b) to read as follows:

Note: Such pieces are ineligible for the nonpresorted ZIP + 4 rate even if they bear the ZIP + 4 code in the address and meet the standardized address format, OCR readability, and other ZIP + 4 preparation requirements.

54. In 364.42b, change the reference "324.72 through 324.77, and 325.51" to "325.52".

55. In 364.432a(1), change the reference "324.72 through 324.77, and 325.51" to "324.51".

56. In Exhibit 364.412, change the first footnote to read as follows:

*Does NOT include pieces prepared with a window in the barcode clear zone. The address must meet the standardized and complete address requirements, including the requirement for the correct numeric ZIP + 4 code, and be OCR readable.

57. In Exhibit 364.42, change the first footnote to read as follows:

*Does NOT include pieces prepared with a window in the barcode clear zone. The address must meet the standardized and complete address requirements, including the requirement for the correct numeric ZIP + 4 code, and be OCR readable.

PART 365—COMBINED PRESORT MAILINGS

58. Add the title "Minimum Quantity Requirement" to 365.21.

59. Revise 365.22 to read as follows:

365.22 *85 Percent Requirement.* At least 85 percent of the pieces in a combined mailing must bear a correct ZIP + 4 code, and either a complete and standardized address as required in 324.3, or if ZIP + 4 barcoded, a complete address as required in 325.4. The correct ZIP + 4 code is the finest level (depth) of ZIP + 4 code listed in the current USPS ZIP + 4 database (as defined in 324.32) for the complete address. All pieces that do not bear the correct numeric ZIP + 4 code must bear the correct numeric 5-digit ZIP Code.

60. Insert new 365.23 to read as follows:

365.23 *Other Requirements.* All pieces in the mailig must meet the requirements of 324.3 through 324.6.

61. Revise 365.24 to read as follows:

365.24 *Presort.* All pieces in a combined mailing (both 5-digit ZIP Coded and ZIP + 4 coded pieces) must be presorted together to the finest extent possible as required in 368.

62. Add the title "Rate Marking" to 365.25.

63. Add the title "Postage Payment" to 365.26.

64. Add the title "Carrier Route Presort Mailings" to 365.27. Delete the last sentence of 365.27 and replace it with "Nonqualifying pieces of a carrier route mailing may qualify for the ZIP + 4 rate only if all pieces in the mailing bear a ZIP + 4 code. See 367.424."

PART 366—PREPARATION REQUIREMENTS FOR OPTIONAL COMBINED ZIP + 4 PRESORT AND PRESORTED FIRST-CLASS MAILINGS (DESTINATING AT AUTOMATED SITES)

65. Change the title of 365.11a from "Minimum Pieces" to "Minimum Quantity Requirement."

66. Revise 366.11b to read as follows:

b. *85 Percent Requirements.* At least 85 percent of the pieces in the mailing must bear a correct ZIP + 4 code, and either the complete and standardized address as required in 324.3 or, if ZIP + 4 barcoded, a complete address as required in 325.4. The correct ZIP + 4 code is the finest level (depth) of ZIP + 4 code listed in the current USPS ZIP + 4 database (as defined in 324.32) for the complete address. All pieces that do not bear the correct numeric ZIP + 4 code must bear the correct numeric 5-digit ZIP Code.

67. Delete section 366.11c.

68. Renumber current 366.11d through f as new 366.11f through h.

69. Insert new 366.11c through e as follows:

c. *Other Requirements.* All pieces in the mailing must meet the requirements of 324.3 through 324.7.

d. *Presort.* All pieces in an optional combined mailing (both 5-digit ZIP Coded and ZIP + 4 coded pieces) must be presorted together to the finest extent possible as described in 366.2 through 366.4 and 366.12.

e. *Rate Marking.* All pieces must bear an appropriate rate category marking (see 362.5).

70. Add the following exception to the end of 366.11g:

Exception: Mailers may place pieces for 3-digit ZIP Code areas not listed in Exhibit 122.63m in the residual portion of the mailing. Such pieces must be paid for at the appropriate nonpresorted ZIP + 4 or single piece First-Class rates.

71. Add the following as the second sentence of 366.12: Residual pieces also include pieces a mailer wishes to include for a 3-digit ZIP Code area not listed in Exhibit 122.63m that also do not qualify for the presort rates under the provisions of 366.

PART 624—CONDITIONS FOR SPECIFIC BULK RATE PREPARATION LEVELS

72. Add the following sentence to the end of 624.11:

It is strongly recommended that basic level rate mailings *not* be prepared so that pieces in the mailing bear a 5-digit postnet barcode. If a basic level mailing is prepared with postnet barcodes (either ZIP + 4 or 5-digit) the pieces in the mailing must meet the ZIP Coding, addressing, documentation, and barcoding requirements of 624.63, 624.64 and 624.65.

73. Add the following sentence to the end of 624.21:

It is strongly recommended that five-digit level rate mailings *not* be prepared so that pieces in the mailing bear a 5-digit postnet barcode. If a five-digit level mailing is prepared with postnet barcodes (either 5-digit or ZIP + 4) the pieces in the mailing must meet the ZIP Coding, addressing, documentation, and

barcoding requirements of 624.63, 624.64 and 624.65.

74. Add the following sentence to the end of part 624.31:

It is strongly recommended that carrier route presort mailings *not* be prepared so that pieces in the mailing bear a 5-digit postnet barcode. If a carrier route presort rate mailing is prepared with postnet barcodes (either ZIP + 4 or 5-digit) the pieces in the mailing must meet the ZIP Coding, addressing, documentation, and barcoding requirements of 624.63, 624.64 and 624.65.

75. In 624.4, change 624.41 to read as follows:

624.4 Basic ZIP + 4 Rate Mailings

624.41 *General.* Each mailing must meet the requirements of 623 in addition to the requirements in 624.4. Only letter-size pieces that bear a correct ZIP + 4 code and meet the requirements of 624.42 through 624.49 may qualify for the basic ZIP + 4 rate. Pieces in a basic ZIP + 4 mailing that bear only a correct 5-digit ZIP Code are subject to the basic level rate.

Note: Carrier route presort level rate pieces must not be included in a basic ZIP + 4 rate mailing.

76. Revise 624.43 to read as follows:

624.43 ZIP Code and Address Requirements

.431 *Required Percentage of ZIP + 4 Coded and Properly Addressed Pieces.* At least 85 percent of the total pieces in each mailing must bear the correct numeric ZIP + 4 code and meet the standardized and complete address requirements in 624.432. The correct ZIP + 4 code is the finest level (depth) of ZIP + 4 code listed in the current USPS ZIP + 4 database for the complete address, as further described in 624.432. Pieces not bearing the correct numeric ZIP + 4 code must bear the correct numeric 5-digit ZIP Code. Only pieces that bear a standardized and complete address that includes the correct numeric ZIP + 4 code, qualify for the basic ZIP + 4 rate.

Note 1: The 85 percent ZIP + 4 code requirement may be applied to a mailing list or cycle rather than an individual mailing under the conditions in 624.482.

Note 2: Pieces in a basic ZIP + 4 mailing prepared with ZIP + 4 barcodes must bear complete addresses including the correct numeric ZIP + 4 code, but need not show the addresses in the standardized address format, to qualify for the basic ZIP + 4 rate. See 624.49 for the requirements pertaining to barcoding pieces in basic ZIP + 4 rate mailings. For the requirements pertaining to ZIP + 4 barcoded rate mailings, see 624.6.

.432 *Accuracy of ZIP + 4 Coding.*

a. Address Requirements.

(1) *Standardized and Complete Addresses Required.* In order to ensure accurate matching of the address to the finest depth of ZIP + 4 code as required in section 624.431, standardized and complete addresses as set forth in the remainder of this section must be used on all pieces qualifying for the ZIP + 4 rates. An exception is that in mailings prepared with ZIP + 4 barcodes, the addressing requirements in 624.641 may be met as prescribed in 624.49 (and 624.59). Detailed guidelines for preparing standardized and complete addresses are set forth in Publication 28, *Postal Addressing standards.* To the extent possible, the addresses on pieces bearing 5-digit ZIP Codes as permitted in 624.431, should also be standardized.

Note: For purposes of qualifying for ZIP + 4 rates, OCR readability requirements in 624.451 through 624.456 must be met instead of those in Publication 28.

(2) *General Definition.* A standardized and complete address is one that contains all delivery address elements, such as firm name, address (street) number, pre-directional, street name, suffix, post directional, secondary address unit designator and number (e.g. APT 202, STE 100, etc.), or rural route number and box number (e.g. RR 5 Box 10), highway contract route and box number (e.g. HC 4 Box 45), or post office box number (e.g. PO Box 458), necessary to obtain an exact match with the ZIP + 4 file currently in effect to the finest level of ZIP + 4 code. A standardized address must also contain the correct city, state and ZIP + 4 code. Only approved last line (city or place) names as described in the city-state file currently in effect must be used. The address elements can be fully spelled or abbreviated. When abbreviated, the delivery address line abbreviations must be obtained from the ZIP + 4 file and the last line abbreviations must be obtained from the city-state file. Standardized addresses must be output to the mailpiece in the format shown in Exhibit 122.33, and further specified in 122.35. Detailed guidelines for the standardized address format are contained in Publication 28, Postal Addressing Standards. Pieces with addresses that do not meet the standardized and complete address requirements do not qualify for ZIP + 4 rates and further must not show a ZIP + 4 code in the address.

Note: Pieces prepared with barcodes in accordance with 624.49 (or 624.59), may meet the requirements in 624.641 instead of the requirements of this section although it is recommended that they use standardized address formats as required in this section.

(3) *Secondary Address Units.* Firm names and unit designators and numbers that show the specific apartment, building, floor, suite, unit, room, department, etc., are required to appear in the address on the mailpiece where such firm names or secondary address unit numbers are necessary to obtain a match with the finest level of ZIP + 4 code in the ZIP + 4 database. In instances where a firm name or secondary address unit number is needed to obtain the finest level of ZIP + 4 code but is not known, the address that appears on the mailpiece must not bear a ZIP + 4 code (nor may the piece bear a ZIP + 4 barcode if prepared in accordance with 624.49). This means that alternative or default ZIP + 4 codes for a building are not acceptable on mailpieces entered at the ZIP + 4 rates when finer ZIP + 4 codes for apartment ranges, floors, suites, firms, etc., within that building are listed in the USPS ZIP + 4 database.

Note: To enhance delivery of mailpieces, mailers should make every effort to place secondary address unit designators and numbers on mailpieces where they exist for an address, even when secondary address unit numbers (or ranges of numbers) are not contained in the ZIP + 4 file for that street address and, therefore, are not needed to obtain a match to the finest level of ZIP + 4 code.

(4) *Rural Routes and Highway Contract Routes.* A standardized and complete address for rural routes and highway contract routes contains the rural route or highway contract route number and the box number necessary to obtain an exact match with the ZIP + 4 file currently in effect to the finest possible level of ZIP + 4 code. The rural route or highway contract route box number must appear in the address on the mailpiece when it is necessary to obtain the finest level of ZIP + 4 code. In instances where a box number is needed to obtain the finest level of ZIP + 4 code but is not known, the address that appears on the mailpiece must not bear a ZIP + 4 code (nor may the piece bear a ZIP + 4 barcode if prepared in accordance with 624.49 or 624.59). This means that alternative or default ZIP + 4 codes for the route are not acceptable on mailpieces entered at the ZIP + 4 rates when finer ZIP + 4 codes for specified box number ranges within that route are listed in the USPS ZIP + 4 database.

Note: To enhance delivery of mailpieces, mailers should make every effort to place box numbers for rural routes and highway contract routes on mailpieces where they

exist for an address, even when box numbers (or ranges of box numbers) are not contained in the ZIP + 4 file for that route and therefore are not needed to obtain a match to the finest level of ZIP + 4 code.

(5) *Post Office Box Addresses.* Post office box addresses must contain a post office box number that can be exactly matched with the ZIP + 4 file currently in effect.

b. Requirements for Standardizing Addresses, Determining if Addresses are Complete, and Assigning ZIP + 4 Codes

(1) *Permissible Methods.* Any of the methods listed below for standardizing addresses, determining if addresses are complete, and assigning ZIP + 4 codes to addresses may be used. No other methods are permissible.

(a) National Change of Address (NCOA) process.

(b) Coding Accuracy Support System (CASS) certified matching software for ZIP + 4 matching.

(c) USPS diskette ZIP + 4 coding service.

(d) PC or mini-computer based manual look-up system that uses CASS certified software.

(2) *Up-to-Date CASS Certification and ZIP + 4 Database.* The ZIP + 4 matching software described in 624.432b(1) (a) through (d) must, at the time of ZIP + 4 coding, have a valid CASS certification and use the current USPS ZIP + 4 base file that has been updated with all monthly or quarterly change transaction files pertaining to that base file.

(3) *Date of Matching.* Addresses in mailings must have been matched using the ZIP + 4 matching software and current ZIP + 4 database described in 624.431b(2) to obtain the current ZIP + 4 numeric code within 6 months of the mail entry date.

(4) *Matching Rules.* Software parameter options governing the matching logic or rules used in certified software that could result in an address with an incorrect ZIP + 4 code, or assignment of a ZIP + 4 code that is not the finest level of ZIP + 4 code for the complete address must not be used. The address output to the mailpiece must reflect any decisions made by the software in determining the ZIP + 4 code. For example, suppose a mailpiece for a given city and ZIP Code contains the address 123 Main St. The ZIP + 4 file shows both a North Main Street and a South Main Street for that city and each has a street address number range that includes 123. The software matching logic either must not assign a ZIP + 4 code to the mailpiece, or must revise the address to conform to the directional selected. If the address is revised to match the address shown for a selected ZIP + 4 code, that address, including the chosen directional, must be output to the mailpiece in a standardized format as required in 624.432a.

c. Required Documentation

(1) *A Vendor's CASS Certified Software.* Mailers must submit a copy of Form 35XX with each ZIP + 4 mailing. A copy of the vendor's CASS certification, a copy of the invoice, as well as a copy of the job specification and/or output report(s) that show services were received from the CASS certified vendor must be attached to the Form 35XX. The documents must show the date the services were performed, the total number of addresses submitted for coding, and the total number of addresses successfully ZIP + 4 coded.

Note: National Change of Address (NCOA) licensees and the USPS (when USPS diskette coding service is used) are considered CASS certified vendors.

(2) *A Mailer's CASS Certified Software.* Mailers using their own software that has a valid CASS certification must submit with each ZIP + 4 mailing a copy of Form 35XX. A copy of their CASS certification and internal records showing the date the mailing list was coded, the total number of addresses on the list, and the total number of addresses on the list that were successfully ZIP + 4 coded, must be attached to the Form 35XX.

(3) *Mailing Comprised of or Derived from Several Different Mailing Lists.* When a mailing is comprised of addresses from several different mailing lists that may each have been ZIP + 4 coded by different methods or different mailers or vendors, the documentation described in 624.432c (1) and (2) must be provided for each mailing list included in the mailing. Example: A mailing contains addresses from Mailing List A that was ZIP + 4 coded by a CASS certified vendor, and addresses from part of Mailing List B that was ZIP + 4 coded with the mailer's CASS certified software. This mailing must be accompanied by a single Form 35XX, the supporting documents described in 624.432c(1) (for Mailing List A) and the supporting documents described in 624.432c(2) (for Mailing List B).

d. *Obtaining CASS Certification.* Mailers must write or call the National Address Information Center at the following address to arrange for testing of their ZIP + 4 matching software.

CASS/ZIP + 4 MATCHING
NATIONAL ADDRESS INFORMATION CENTER
6060 PRIMACY PKY STE 101 MEMPHIS TN 38188-0001

Toll-free line: 1-800-238-3150
or in Tennessee: 1-800-233-0453

e. *Obtaining ZIP + 4 Code Products.* Mailers may order the following ZIP + 4 products from the Postal Service:

(1) *ZIP + 4 Base Tape and Quarterly Cumulative Updates.* This contains a master copy of the ZIP + 4 database plus quarterly updates of all add, change, or delete actions that have occurred within the data base since the last release date.

(2) *ZIP + 4 Base Tape and Monthly Transactions.* This contains a master copy of the ZIP + 4 database plus monthly updates of all add, change, or delete actions that have occurred within the database since the last release date.

(3) *Technical Guide.* This is a hard copy (paper) catalog that provides data formats and field definitions of the records in ZIP + 4 products. The guide automatically accompanies any ZIP + 4 product ordered. It may also be ordered independently for informational purposes.

(5) *Ordering ZIP + 4 Tape Products.* The products in 624.432e(1) and (2) are available for the entire nation or for individual states and may be obtained by sending a written request and the appropriate payment to:

ZIP + 4 PRODUCT ORDER
ADDRESS INFORMATION CENTER
6060 PRIMACY PARKWAY STE 101
MEMPHIS TN 38188-0008

For fee information call 1-800-238-3150. In the written request mailers must specify the name of the tape product desired, whether the national tape is requested or a list of the specific states requested. The written request must also specify which of the following magnetic tape characteristics are required:

1600 BPI or 6250 BPI
9 track
ASCII or EBCDIC
Reel or Cartridge at 38K BPI

77. Delete 624.441 through 624.443.

78. Renumber 624.444 and 624.445 as 624.46 and 624.47.

79. Renumber section 624.446 as 624.48.

80. Renumber 624.446a as 624.481; renumber 624.446a(1) and (2) as 624.481a and b; renumber section 624.446b as 624.482.

81. In new section 624.481, change the reference "624.446b" to "624.482."

82. In new section 624.482, change the reference to "624.446a" to "624.481".

83. Renumber existing sections 624.45 through 624.47 as section 624.491 through 624.493. Insert the heading "624.49 Pieces Prepared With Barcodes and

Barcode Windows" above new section 624.491.

84. Revise 624.491 to read as follows:

.491 *Pieces Prepared With ZIP + 4 Barcodes.* Barcodes representing the correct, finest level of ZIP + 4 code for the complete address shown on each piece as defined in 624.431 and 624.432, that are prepared in accordance with 624.65, may appear on pieces in a basic ZIP + 4 mailing. Pieces in basic ZIP + 4 rate mailings prepared with barcodes need not meet the OCR readability requirements in 624.451 through 624.456 to qualify for the basic ZIP + 4 rates. ZIP + 4 barcoded pieces may also meet the complete address requirements in 624.64 instead of the standardized and complete address requirements in 624.432. In either case, pieces bearing a ZIP + 4 barcode must also bear a numeric ZIP + 4 code in the address to qualify for the basic ZIP + 4 rate. ZIP + 4 barcoded pieces that do not bear the correct numeric ZIP + 4 code must bear the correct numeric 5-digit ZIP Code in the address and will qualify for the basic rate.

85. In new 624.492, change the reference "624.43" to "624.431".

86. In new 624.492, change the phrase at the end of the second sentence "and the pieces meet the OCR readability requirements in 624.443" to "the pieces meet the OCR readability requirements in 624.451 through 624.456, and the pieces meet the standarized and complete address requirements in 624.432."

87. In new 624.492, change the phrase at the end of the last sentence "even if the pieces bear a ZIP + 4 numeric code in the address and meet the OCR readability requirements" to "even if the pieces bear the correct numeric ZIP + 4 code in the address, bear a standardized and complete address, and meet the OCR readability requirements.

88. In new 624.493, change the reference "624.43" to "624.431;" change the reference "624.46" to "624.492."

89. Add new 624.44 through 624.45 as follows:

624.44 Physical Mailpiece Requirements for Automation Compatibility

.441 Shape & Dimensions

a. *Size.* Each piece in a mailing must meet the following requirements:

(1) Its length must be at least 5 inches and not more than 11½ inches. This is the dimension parallel to the address.

(2) Its height must be at least 3½ inches and not more than 6⅛ inches.

(3) Its thickness must be at least .007 of an inch for pieces that do not exceed any of the following dimensions: 4¼ inches in height, 6 inches in length. Its thickness must be at least .009 of an inch for pieces greater than 4¼ inches in height or greater than 6 inches in length.

(4) Its thickness must not exceed .250 of an inch.

b. *Shape.* Each piece in the mailing must be rectangular in shape.

c. *Aspect Ratio.* For each piece in the mailing, the length of the piece divided by its height must not be less than 1.3 nor more than 2.5.

.442 *Weight.* The weight of a mailpiece, including its contents, must not exceed 2.5 ounces.

.443 Mailpiece Construction

a. *Enveloped or Secured Edges.* Except as provided in 624.443b and 624.443c, each piece in a ZIP + 4 mailing must be:

(1) prepared in a sealed envelope (the preferred method of preparation), or

(2) sealed or glued on all four edges.

Note: Clasps, staples, string, buttons or other protrusions that may cause equipment jams and damage to the mail must not be used to seal mail.

b. *Folded Self-Mailers and Double Cards.* Single or multiple sheets folded into a letter-size self-mailer, and double cards, need not comply with 624.443a if they are prepared so that the fold is on the longest edge and at the bottom of the mailpiece parallel to the address, and the top contains a minimum of two tabs used to hold the piece together. The first tab must be placed within one inch of the left edge of the mailpiece. The second tab must be placed within one inch of the right edge of the mailpiece. The tabs must not interfere with recognition of postage information, rate markings or return addresses. See Exhibit 624.433b. The tabs must be held in place by permanent gum or pressure sensitive non-removable adhesive. Cellophane tape is acceptable. Additional tabs may be placed on such mailpieces. As an alternative to the use of tabs, the top edge may be spot (or continuously) glued with a permanent glue or adhesive in the same manner and locations specified above for tabs.

Note: Clasps, staples, string, buttons or other protrusions which may cause equipment jams and damage to the mail are unacceptable for tabbing or sealing mail.

BILLING CODE 7710-12-M

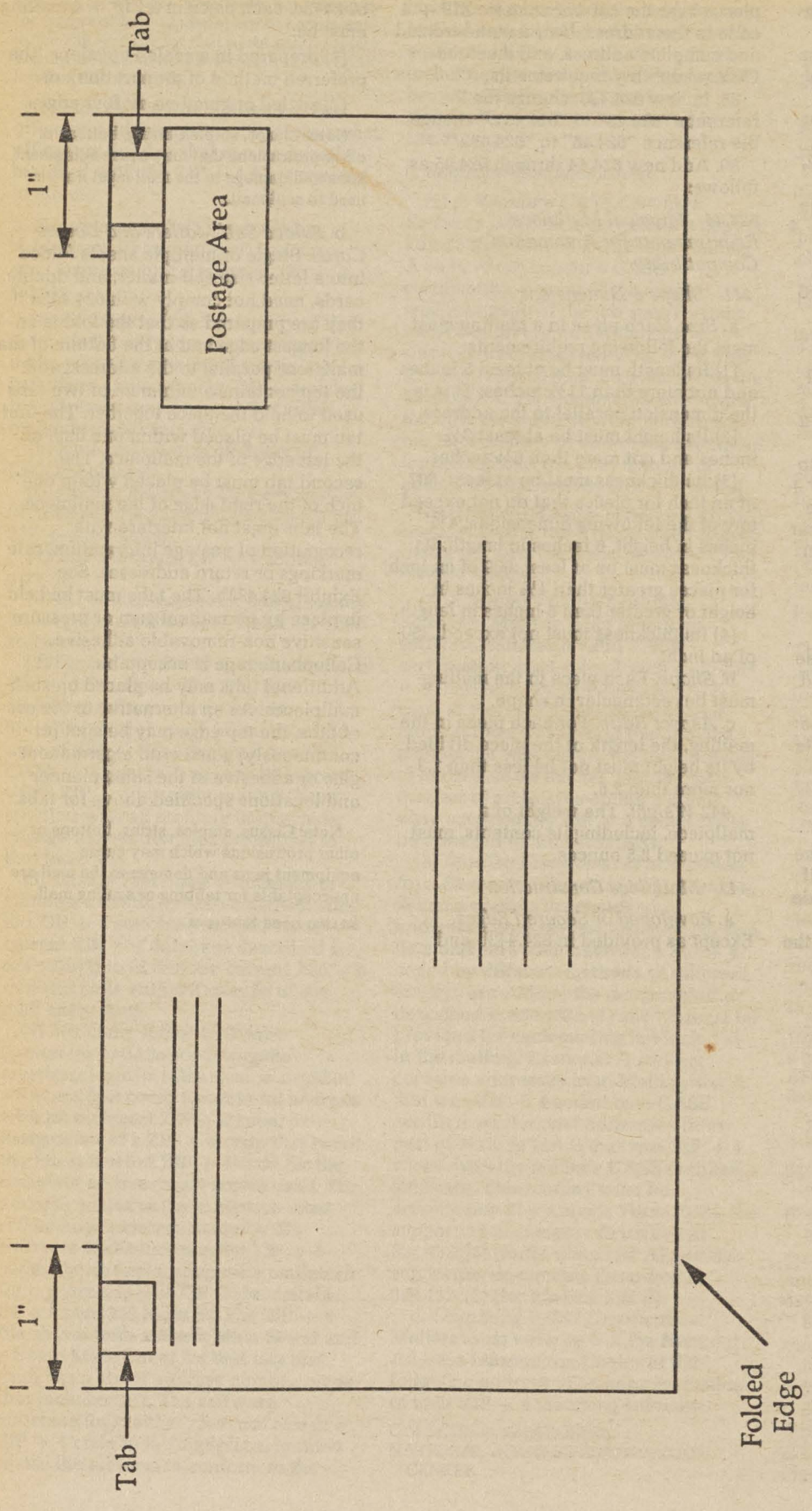


EXHIBIT 624.443b – Preparation of Folded Self-Mailers and Double Cards

BILLING CODE 7710-12-C

c. *Booklet-Type Mailpieces.* Multiple pages bound together to form a letter-size book or booklet-type mailpiece need not comply with 624.443a if prepared so that the bound edge or spine is on the longest edge and at the bottom of the mailpiece parallel to the address, and the top unbound edge of the mailpiece contains a minimum of two tabs used to hold the edges together. The first tab must be placed within one inch of the left edge of the mailpiece. The second tab must be placed within one inch of the right edge of the mailpiece. The tabs must not interfere with recognition of postage information, rate markings or return addresses. See Exhibit 624.433c. The tabs must be held in place by permanent gum or pressure sensitive non-removable adhesive. Cellophane tape is acceptable. Additional tabs may be placed on such mailpieces. As an alternative to the use of tabs, the pages may be spot glued at the top edge with a permanent glue or adhesive in the same manner and locations specified above for tabs, or the entire top edge may be continuously glued.

BILLING CODE 7710-12-M

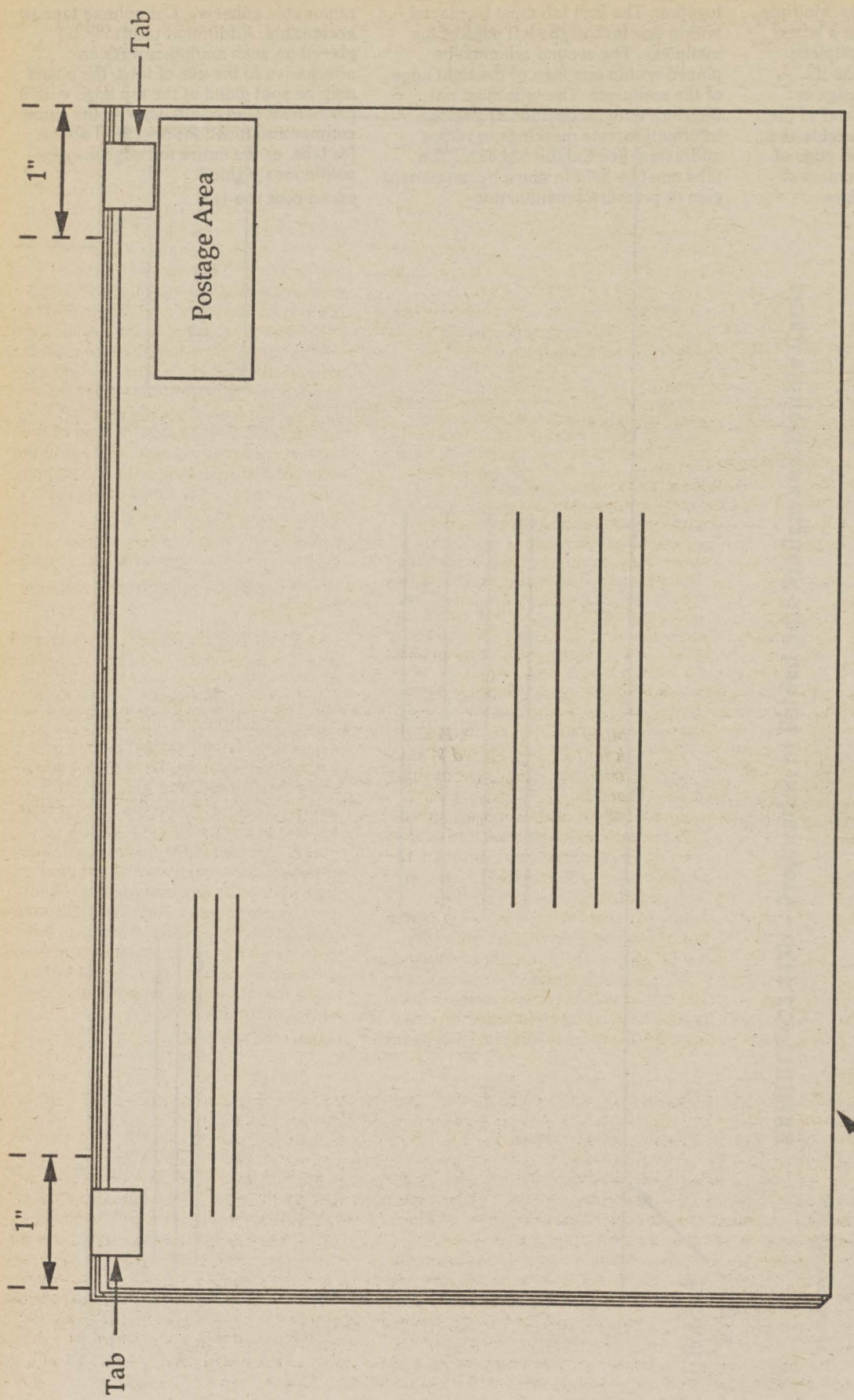


EXHIBIT 624.443c– Preparation of Booklet-Type Publications

BILLING CODE 7710-12-C

Note: Clasps, staples, string, buttons or other protrusions that may cause equipment jams and damage to the mail must not be used to tab or seal mail.

d. Contents of Mailpiece.

(1) *Flexibility.* The mailpiece and its contents must be reasonably flexible to ensure transport through automated equipment. The mailpiece, including its contents, must be able to bend easily when subjected to a transport belt tension of 40 pounds around an 11-inch diameter drum. Pens, pencils, keys, bottle caps and other rigid items are prohibited within mailpieces. Reasonably flexible items such as credit cards are permissible.

(2) *Odd Shaped Items.* Odd-shaped items such as small coins and tokens that meet the flexibility criteria of 624.443d(1) are permissible within mailpieces only if they are firmly affixed to part of the contents of the mailpiece and are wrapped in the envelope's other contents so that the shape of the mailpiece is streamlined to facilitate automated processing.

e. *Adhesive on Address Labels and Stickers.* Address labels and other labels and stickers that are affixed to the outside of mailpieces must be affixed with permanent gum or pressure sensitive non-removable adhesive, and must be completely and uniformly affixed to the mailpiece.

Note: Pressure sensitive labels provided to mailers by the USPS for purposes of labeling packages to sortation level are made with pressure sensitive non-removable adhesive and are permissible on the outside of mailpieces.

.444 Stiffness.

a. *Pieces Other than Cards.* Paper envelopes and paper used to prepare folded self-mailers, must have a minimum basis weight of 20 pounds, using a 17 inch by 22 inch sheet size and 500 sheets. The front and back covers of unenveloped bound mailpieces such as catalogs, booklets and brochures, must meet the 20 pound minimum basis weight requirement. The front and back sheets of mailpieces formed of cut sheets that are glued on the outer edges must meet the 20 pound minimum basis weight requirement. See also the minimum thickness requirements in 624.441a(3).

b. *Cards.* Cards must be printed on paperstock meeting standard industry basis weight of 75 pounds or greater, with none less than 71.25 pounds, for 500 sheets measuring 25 inches by 38 inches. The paper must be free from groundwood except when coated with a substance that adds to the paper's ability to resist an applied bending force.

Note: Cards exceeding 4¼ inches in height and 6 inches in length must also have a minimum thickness of .009 of an inch as described in 624.441a(3). In addition, since the importance of thickness and stiffness increases as card size increases, it is recommended that cards exceeding 4¼ inches in height or 6 inches in length be produced from stock with a higher basis weight. Recommended examples are: (1) a vellum Bristol with a basis weight of at least 80 pounds (22½ inches × 28½ inches, 550 sheet base); (2) and Index stock with a basis weight of at least 90 pounds (25½ inches × 30½ inches, 500 sheet base); or (3) an offset stock with a bases weight of at least 100 pounds (25 inches by 38 inches, 500 sheet base).

.445 Ability to Accept U.S. Postal Service Ink Jet Printer Applied Water-Based Barcode Ink. The paper or other material used for the envelope or outermost sheet of the address side of ZIP + 4 rate mailings must allow printing of barcodes by USPS ink jet printers used with Optical Character Reader (OCR) equipment without smearing. The paper must allow water-based ink applied with ink-jet to dry within ½ of a second without smearing. Coatings, particularly glossy coatings, may prevent the water-based ink from USPS ink jet printer applied barcodes from drying quickly. Similarly, certain non-paper, plastic-like materials such as spun bonded olefin are not acceptable for ZIP + 4 rate mailings because they will not allow water-based USPS ink jet applied barcode ink to dry without smearing. Glossy paper, paper with glossy coatings, and non-paper materials will be accepted at the ZIP + 4 rates only if approved by the USPS Engineering and Development Center, 8403 Lee Highway, Merrifield, VA 22082–8101. Such approval will be granted only if testing shows the material will allow water-based USPS ink jet applied ink to dry within ½ of a second. A written request for testing and a minimum of 50 sample pieces must be submitted to the USPS Engineering and Development Center for testing and approval at least 6 weeks prior to mailing at ZIP + 4 rates. A copy of the request for approval must be sent to the office of mailing along with one sample piece. A copy of the letter of approval must accompany the mailing.

Note: poly-wrapped or poly-bagged materials are not acceptable at ZIP + 4 rates.

624.45 OCR Readability and Barcode Clear Zone

.451 *OCR Read Area.* The OCR read area is a rectangular area on the address side of the mailpiece formed inside the following boundaries:

a. ½ inch from the left edge.

b. ½ inch from the right edge.

c. 2¾ inches from the bottom edge (top of the rectangular area.)

d. ⅝ of an inch from the bottom edge (bottom of the rectangular area.)

.452 *Placement of Address.* All lines of the address (exclusive of optional lines above the name of recipient line) must be contained within the OCR read area defined in 624.451. A uniform left margin must be maintained for the name and address information. See 624.432a for further requirements governing the address format.

BILLING CODE 7710-12-M

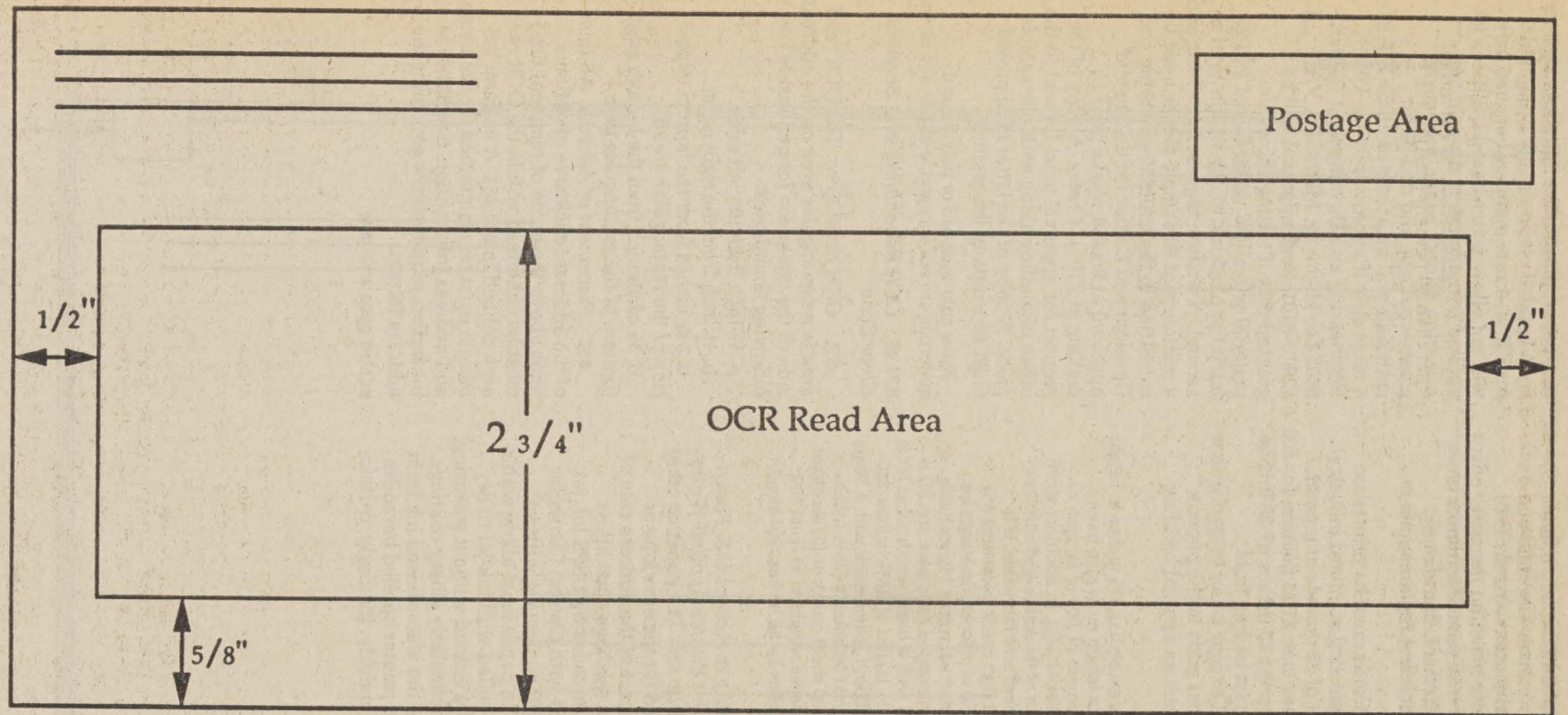


EXHIBIT 624.451 – OCR Read Area

BILLING CODE 7710-12-C

.453 Limits for Non-Address Printing in OCR Read Area.

a. *Non-Address Printing or Markings.* There must be no markings, printing, or die cuts (except for the edges of address windows prepared in accordance with 624.456) in the OCR Read Area on either side of, or below, any of the address lines. Non-address printing or markings may appear within the OCR Read Area only if positioned above the address lines. This requirement also applies to addresses printed on inserts in window envelopes. For purposes of this section, address lines include the name of the recipient, firm name, building name, apartment or other secondary address unit numbers, house or building numbers, street, rural route number, highway contract route number, box number, city, state and ZIP Code. For purposes of this section, address lines exclude optional lines above the name of recipient line such as keylines and optional endorsement lines.

b. *Return Addresses.* Return address information must not appear within the OCR Read Area. In addition, the return address must appear in the top left corner of the mailpiece, and extend no further than 50 percent (half) of the length of the mailpiece to the right edge and no lower than 33.3 percent (one-third) of the height of the mailpiece from the top as shown in Exhibit 624.453b.

BILLING CODE 7710-12-M

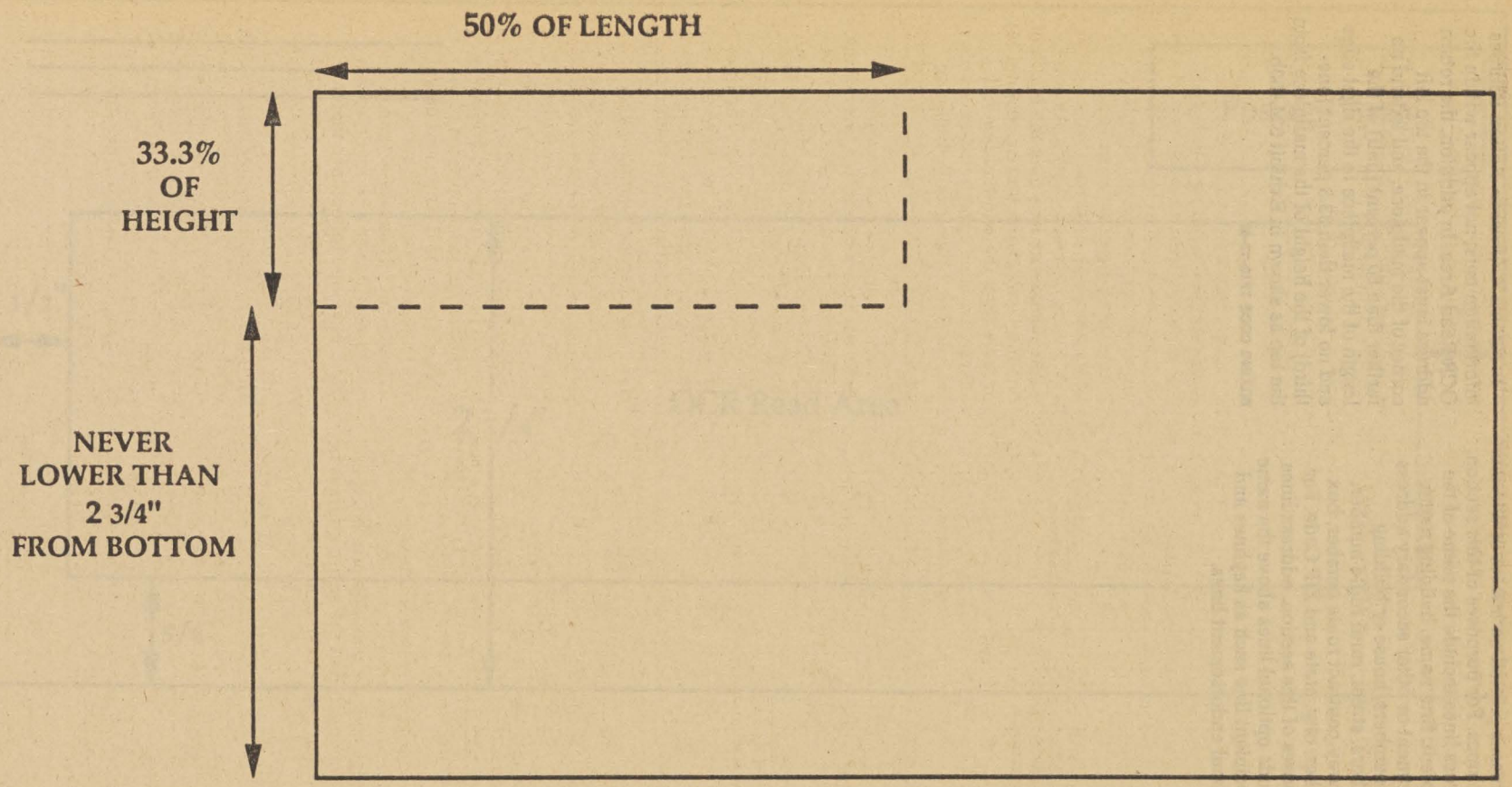


EXHIBIT 624.453b – Placement of Return Addresses

BILLING CODE 7710-12-C

c. *Mailer Endorsements.* Mailer endorsements concerning forwarding, return, and address correction services must not appear within the OCR Read Area. They must, however, appear below the return address (preferably immediately below the return address) and meet all other requirements of 159.151 and 122.17.

.454 Optical Character Reader (OCR) Readable Type Required.

a. *General.* A type font that is readable by USPS Optical Character Reader (OCR) equipment is required. Type fonts that meet the requirements in 624.454 are considered OCR readable type fonts. Italic, script, artistic, cyrillic, other highly-stylized fonts, and dot matrix characters with separated matrix elements of .005 of an inch or more are not considered OCR readable. Block style typewriter and line printer type are normally OCR readable. The fonts identified in Exhibit 624.454a are acceptable and have been tested to meet the requirements of 624.454 b, d, e, and f.

The type styles in the left column have been tested on USPS OCRs and verified to have a high degree of readability. The styles in the right column have not been tested but are considered to be equivalent type faces by the National Composition Association.* Each horizontal grouping is considered to be a family of equivalent typefaces.

EXHIBIT 624.454a—OCR READABLE TYPE FONTS

Tested and verified	Similar styles
Century Light Schoolbook.	Century.
Elite	
Friz Quadrata	
Futura Medium	Airport.
	Alphatura.
	Contempra.
	Future.
	Photura.
	Sparta.
	Stylon.
	Techica.
	Techno.
	Tempo.
	Twentieth Century.
	Vogue.
Helios	Akzidenz-Grotesk.
	Buch.
Helios Light	Aristocrat.
Helvetica	Claro.
Helvetica Light	Europa Grotesk.
Helvetica Regular	Geneva.
Megaron Bold	Hamilton.
Megaron Medium	Newton.
Triumverate	Sonoman Sanserif.
Triumverate Bold	Spectra.
Triumverate Regular	Vega.
Honeywell H200	
IBM 1403	
IBM 1428	
Manifold 72	
Koronna Regular	Aquarius.
	Corona.
	Crown.
	Koronna.
	News No. 3.
	News No. 5.
	News No. 6.
	Nimbus.
	Royal.
News Gothic	Alpha Gothic.
Trade Gothic	Classified News.
Newtext Regular Condensed.	
OCR-A	
OCR-B	
Optima	Athena.
	Chelmsford.
	Musica.
	October.
	Omega.
	Optimist.
	Oracle.
	Roma.
	Theme.
	Zenith.
Pica	
Standard Typewriter	
Stymie Medium	Alexandria.
	Beton.
	Cairo.
	Karnak.
	Memphis.
	Pyramid.
	Rockwell.
Univers	Alphavers.
Univers 5	Eterna.
Univers Medium	Galaxy.
	Kosmos.
	Versatile.
Universal	

*Equivalent typefaces were taken from a book entitled "TYPEFACE ANALOGUE" by W.F. Wheatley for the National Composition Association.

b. *Machine Printed Addresses Required.* All lines of the delivery address must be machine printed. It is recommended that the entire address be printed in upper case characters.

c. *Print Quality.* A high degree of print quality must be maintained. Mailpieces bearing type that is smudged or faded or contains voids within character strokes or extraneous ink outside of character boundaries are not acceptable at ZIP + 4 rates.

d. *Character Height.* The height of address characters must be no less than 80 mils nor more than 200 mils. (A mil equals .001 of an inch.) Ten or twelve point plain style of type is recommended. (A point equals .0138 of an inch.)

e. *Character Stroke Width.* The width of address character strokes must be uniform and no less than 10 mils (¾ point) nor more than 30 mils (2 points).

f. *Character Height to Width Ratio.* The height of address characters divided by their width must fall between 1.1 and 1.7. A mid-range height to width ratio of about 1.4 to 1 is recommended (the height divided by the width is 1.4).

g. *Space Between Characters.* A clear vertical column of at least 10 mils (¾ point) and no more than 40 mils (3 points) must exist between each character of the address.

h. *Space Between Words.* A clear vertical space no less than the width of one full "em" character (e.g., capital M) or more than the width of five full characters must exist between words of the address. (This includes spacing between the state abbreviation and the ZIP + 4 code.)

i. *Space Between Lines of the Address.* Spacing between lines of the address must be uniform and no less than 30 mils (two points) or more than the height of two full characters. (Maximum of 400 mils or 29 points.)

j. *Skew of Address Lines.* The lines of the address must not be skewed (slanted) more than five degrees relative to the bottom edge of the mailpiece.

.455 Reflectance Requirements.

a. *Background Reflectance.* The material on which the delivery address will appear (envelope, card, insert material, or outermost sheet) must produce a background reflectance of at least 50 percent in the red and 45 percent in the green portions of the optical spectrum. (White and pastel colors generally satisfy this requirement.) These reflectance measurements shall be made with a USPS envelope reflectance meter.

b. *Print Contrast Ratio—Contrast Between the Ink Used in the Address and the Background of the Mailpiece.* A print contrast ratio greater than or equal to 40 percent in both the red and green portions of the optical spectrum is required. If glassine windows are used the print contrast ratio must be greater than or equal to 45 percent. The print contrast ratio is determined in the following manner:

$$PCR = \frac{\text{Reflectance of the Background} - \text{Reflectance of the ink}}{\text{Reflectance of the Background}} \times 100 = \%$$

Note: This requirement is generally satisfied by using black or dark blue ink on a white background. Other color combinations should be measured to ensure compliance with the minimum print contrast ratio.

c. *Print Contrast Ratio—Opacity.* Envelope material, insert material as viewed through an envelope window, or the outermost sheet of a mailpiece, must have sufficient opacity to prevent non-address printing from "showing through" to the extent that it will affect OCR processing. The print contrast ratio of the non-address print that shows through in the *OCR read area and barcode clear zone* must not exceed 15 percent when measured in the red and green spectra. (See section 624.455b for an explanation of how to compute the print contrast ratio.)

d. *Print Contrast Ratio—Dark Fibers and Background Patterns.* The material on which the delivery address will appear (envelope, card, insert material, or outermost sheet) must not contain dark fibers or background patterns (checks, etc.) that produce a print contrast ratio of more than 15 percent when measured in the red and green spectra. If material on which the delivery address will appear is printed in a "halftone screen" it must not contain fewer than 200 lines per inch or be printed with more than a 20 percent screen (dot size).

.456 Additional Requirements for Envelopes with Address Windows and Their Inserts.

a. *Clear Space Required Between Address and Address Window Edges.* A clear space of a least ⅛ of an inch must be left between the address block and the top, bottom and side edges of the window. This clear space must exist, even when the insert is moved to its full limits in each direction within the envelope. The bottom edge of the address window must not extend more than ⅛ of an inch into the barcode clear zone (see 624.457).

b. *Window Covers.* Address windows, if covered, must be covered with a non-tinted clear or transparent material glued securely on all edges. The recommended window cover material is cellophane or polystyrene. The address, as viewed through the window material, must meet the minimum print contrast ratios described in 624.455. Certain types of glassine material interfere with OCR readability. Therefore, glassine may be used for window cover material only if the address information measured through the glassine meets a print contrast ratio of 45 percent as measured by 624.455b.

624.457 *Barcode Clear Zone.* The barcode clear zone is the rectangular area formed inside the following boundaries: ⅝ of an inch from the bottom edge of the mailpiece, 4½ inches from the right edge of the mailpiece, and the bottom edge. See Exhibit 624.457. No printing or markings that would lower the reflectance (section 624.454a) to less than 50 percent in the red and 45 percent in the green portions of the optical spectrum, except for a properly prepared barcode in accordance with 624.49, can be placed within the barocde clear zone. In addition, the bottom edge of address windows must be at least ½ of an inch from the bottom edge of the envelope.

90. In 624.5, change 624.51 to read as follows:

624.5 Five-Digit ZIP + 4 Rate Mailings

624.51 *General.* Each mailing must meet the requirements of 623 in addition to the requirements in 624.5. Only letter-size pieces that bear a correct ZIP + 4 code, a standardized and complete address in accordance with 624.432 (as referenced in 624.532), meet the sortation requirements of 624.56 (are part of a package of 10 or more pieces to the same 5-digit ZIP Code destination, and are placed in a 5-digit or 3-digit sack that contains at least 125 pieces or 15 pounds of mail), and otherwise meet the requirements of 624.52 through 624.59 may qualify for the 5-digit ZIP + 4 rate. Pieces that bear a 5-digit ZIP Code and are sorted in accordance with 624.561 may qualify for the 5-digit presort level rate. Residual pieces (see 624.562) that bear a ZIP + 4 code and a standardized and complete address may qualify for the basic ZIP + 4 rate. Residual pieces that bear a 5-digit ZIP Code may qualify for the basic presort level rate.

Note: Carrier route presort level rate pieces may not be included in a 5-digit ZIP + 4 rate mailing.

91. Revise 624.53 to read as follows:

624.53 ZIP Code and Address Requirements

.531 *Required Percentage of ZIP + 4 Coded and Properly Addressed Pieces.* At least 85 percent of the total pieces in each mailing must bear the correct numeric ZIP + 4 code and meet the standardized and complete address requirements in 624.432 (as referenced in 624.532). The correct ZIP + 4 code is the finest level (depth) of ZIP + 4 code listed in the current USPS ZIP + 4 database for the complete address, as further described in 624.432 (as referenced in 624.532). Pieces not bearing the correct numeric ZIP + 4 code must bear the correct numeric 5-digit ZIP Code. Only pieces that bear a standardized and complete address that includes the correct numeric ZIP + 4 code qualify for the 5-digit ZIP + 4 rate.

Note 1: The 85 percent ZIP + 4 code requirement may be applied to a mailing list or cycle rather than an individual mailing under the conditions in 624.582.

Note 2: Pieces in a 5-digit ZIP + 4 mailing prepared with ZIP + 4 barcodes must bear complete addresses, including the correct numeric ZIP + 4 code, but need not show addresses in the standardized address format to qualify for the 5-digit ZIP + 4 rate or, if in the residual portion of the mailing, the basic ZIP + 4 rate. See 624.59 for the requirements pertaining to barcoding pieces in 5-digit ZIP + 4 rate mailings. For the requirements pertaining to ZIP + 4 barcoded rate mailings, see 624.6.

.532 Accuracy of ZIP + 4 Coding.

a. *Address Requirements.* The standardized and complete address requirements in 624.432a(1) through (5) must be met.

b. *Requirements for Standardizing Addresses, Determining if Addresses are Complete, and Assigning ZIP + 4 Codes.* The matching requirements in 624.432b must be met.

c. *Required Documentation.* Documentation to prove the requirements in 624.532a and b have been met must be submitted with each mailing in accordance with 624.432c.

d. *Obtaining CASS Certification.* See 624.432d.

e. *Obtaining ZIP + 4 code products.* See 624.432e.

92. Delete the heading 624.54, and delete current 624.541 through 624.543.

93. Renumber 624.544 and 624.56; renumber 624.544a as 624.561; renumber 624.544b as 624.562.

94. In new 624.561, change the reference 624.544b to 624.562.

95. In new 624.562, change the reference 624.544a to 624.561; change the reference 624.53 to 624.531.

96. Renumber 624.545 as 624.57.

97. Renumber 624.546 as 624.58.

98. Renumber 624.546a as 624.581; renumber 624.546a(1) as 624.581a; renumber 624.546a(2) as 624.581b; renumber 624.546a(3) as 624.581c.

99. Within new 624.581, change the reference to 624.546b to 624.582; change the reference to 624.546c to 624.583.

100. Renumber 624.546b as 624.582; renumber 624.546b(1) as 624.582a; renumber 624.546b(2) as 624.582b.

101. Within new 624.582, change the reference to 624.546a to 624.581.

102. Renumber 624.546c as 624.583; change the reference within this section from 624.546a to 624.581.

103. Renumber existing sections 624.55 through 624.57 as 624.591 through 624.593. Insert the heading "624.59

Pieces Prepared With Barcodes and Barcode Windows" above new 624.491.

104. Revise new 624.591 to read as follows:

.591 *Pieces Prepared With ZIP + 4 Barcodes.* Barcodes representing the correct, finest level of ZIP + 4 code for the complete address shown on each piece as defined in 624.531 and 624.532, that are prepared in accordance with 624.65, may appear on pieces in a 5-digit ZIP + 4 rate mailing. Pieces in 5-digit ZIP + 4 rate mailings prepared with barcodes need not meet the OCR readability requirements in 624.451 through 624.456 (as referenced in 624.55) to qualify for the 5-digit ZIP + 4 rates. ZIP + 4 barcoded pieces may also meet the complete address requirements in 624.64 instead of the standardized and complete address requirements in 624.432 (as referenced in 624.532). In either case, pieces bearing a ZIP + 4 barcode must also bear a numeric ZIP + 4 code in the address to qualify for the 5-digit ZIP + 4 rate, or if in the residual portion of the mailing, the basic ZIP + 4 rate. ZIP + 4 barcoded pieces that do not bear the correct numeric ZIP + 4 code must bear the correct numeric 5-digit ZIP Code in the address and will qualify for the 5-digit rate, or if in the residual portion of the mailing the basic rate.

105. In new 624.592, change the reference 624.66 to 624.652; change the reference 624.53 to 624.531; change the reference 624.66b(3)(a) to 624.562b(3)(a).

106. In new 624.592, change the phrase "the pieces bear a numeric ZIP + 4 code in the address; and the pieces meet the OCR readability requirements in 624.443" at the end of he second sentence to "the pieces bear the correct, finest depth of numeric ZIP + 4 code in the address, the pieces meet the OCR readability requirements in 624.451 through 624.456 (as referenced in 624.55), and the standardized and complete address requirements in 624.432 (as referenced in 624.532)."

107. In new 624.592, change the phrase "even if the pieces bear a ZIP + 4 numerical code in the address and meet the OCR readability requirements" at the end of the last sentence to "even if the pieces bear the correct numeric ZIP + 4 code in the address, bear a standardized and complete address, and meet the OCR readability requirements."

108. In new 624.593, change the reference 624.53 to 624.531; change the reference 624.56 to 624.592.

109. Add new 624.54 through 624.55 as follows:

624.54 *Physical Mailpiece Requirements for Automation Compatibility.* Each piece in the mailing must meet the physical requirements in section 624.44.

624.55 *OCR Readability and Barcode Clear Zone.* Each piece in the mailing must meet the OCR readability and barcode clear zone requirements in section 624.45.

Note: Pieces prepared with a window in the barcode clear zone through which a ZIP + 4 barcode does not appear (there is either no barcode or there is a 5-digit barcode) may not qualify for any ZIP + 4 rates and may not count toward the 85 percent ZIP + 4 coded pieces requirement in 624.531.

110. In 624.6, revise 624.611 to read as follows:

624.6. ZIP + 4 Barcode Rate Mailings

.61 General

.611 *Description.* Each mailing must meet the requirements of 623 in addition to the requirements in 624.6. Only letter-size pieces that bear a correct ZIP + 4 barcode and a complete address (as defined in 624.63 and 624.64), prepared in accordance with 624.651, and that are part of a 5-digit package of 10 or more pieces, prepared in accordance with 624.681 may qualify for the third-class ZIP + 4 barcode rate. Pieces that do not bear the correct ZIP + 4 barcode and that cannot be sorted to a 5-digit package may be included in the mailing as provided by 624.63 and 624.682. The rates for which such pieces may qualify are described in 624.612.

111. In 624.612a change the reference 624.643a to 624.681.

112. In 624.612a(1) change the reference 624.643a to 624.681; change the phrase "a ZIP + 4 barcode prepared in accordance with 624.65" to "a correct ZIP + 4 barcode prepared in accordance with 624.651."

113. In 624.612a(2) change the reference 624.643a to 624.681.

114. In 624.612a(2)(a) change the phrase "and it meets the barcode clear zone and OCR readability requirements in 624.442, 624.443, and 624.542" to "it meet the standardized address format requirements in 624.432, and the barcode clear zone and OCR readability requirements in 624.45 (as referenced in 624.55)."

115. In 624.612a(2)(b) change the reference 624.66b to 624.552b; change the phrase "and it meets the barcode clear zone and OCR readability requirements of 624.442, 624.443, and 624.542" to "it meets the standardized address format requirements in 624.432, and it meets the barcode clear zone and OCR readability requirements of 624.45 (as referenced in 624.55)."

116. In the note under 624.612a(2)(b) change the phrase "and meet the OCR readability" to "and meet the standardized address format, OCR readability,".

117. In 624.612a(3) change the reference 624.643 to 624.681.

118. In 624.612a(3)(b) change the phrase "and it does not meet the barcode clear zone and OCR readability requirements of 624.442, 624.443, and 624.542" to "and it does not meet the standardized address format requirements in 624.432, or the barcode clear zone and OCR readability requirements of 624.45 (as referenced in 624.55)".

119. In the note under 624.612a(3)(c), change the phrase "and meet OCR readability" to "and meets OCR Readability, standardized address format,".

120. In 624.612b change the reference 624.643b to 624.682.

121. In 624.612b(1) change the reference 624.643b to 624.682.

122. In 624.612b(1)(a) change the reference 624.65 to 624.681.

123. In the note under 624.612b(1)(a) change the phrase "to meet the OCR readability requirements," to read "to meet the standardized address format or the OCR readability requirements,".

124. In 624.612b(1)(b) change the phrase "and it meets the barcode clear zone and OCR readability requirements in 624.422 and 624.443" to "meets the standardized address format requirements in 624.432, and it meets the barcode clear zone and OCR readability requirements in 624.45."

125. In 624.612(b)(1)(c) change the reference 624.66b(3)(a) to 624.652b(3)(a).

126. In 624.612b(1)(c) change the phrase "and it meets the barcode clear zone and OCR readability requirements of 624.422 and 624.443" to "it meets the standardized address format requirements in 624.432, and it meets the barcode clear zone and OCR readability requirements in 624.45."

127. In the note under 624.612b(1)(c), change the phrase "and meet the OCR readability" to "and meet the OCR readability, standardized address format,".

128. In 624.612b(2), change the reference 624.643b to 624.682.

129. In 624.612b(2)(b) change the phrase "and it does not meet the barcode clear zone and OCR readability requirements in 624.422 and 624.443" to "and it does not meet the standardized address format requirements in 624.432, or the barcode clear zone and OCR readability requirements of 624.45."

130. In the note under 624.612b(2)(c) change the phrase "and meet the OCR readability" to "and meets the OCR readability, standardized address format,".

131. Revise 624.63 to read as follows:

624.63 *Required Percentage of ZIP + 4 Barcoded and Completely Addressed Pieces.* At least 85 percent of the total pieces in each mailing must bear a correct ZIP + 4 barcode prepared in accordance with 624.651 and meet the complete address requirements of 624.64. This 85 percent requirement is applied to the total number of pieces in all presort levels in the mailing regardless of the rate claimed for an individual piece. The correct ZIP + 4 barcode is the one that represents the finest level (depth) of ZIP + 4 code listed in the current USPS ZIP + 4 database for the complete address, as defined in 624.64. The addressing, ZIP + 4 matching, and documentation requirements of 325.4 must also be met. Each piece, whether or not it bears a ZIP + 4 barcode must bear either the correct numeric ZIP + 4 code or the correct numeric 5-digit ZIP Code in the address.

Exception: The 85 percent ZIP + 4 barcode and complete address requirement may be applied to a mailing list or cycle rather than an individual mailing under the conditions in 624.693.

Note: All mailings must include at least 200 pieces or 50 pounds of pieces that bear a correct ZIP + 4 barcode, a complete address, and otherwise qualify for the ZIP + 4 barcoded rate.

132. Delete the heading 624.64 and delete 624.61 and 624.642.

133. Renumber 624.643 as 624.68.

134. Renumber 624.643a as 624.681; change the reference 624.643b to 624.682.

135. Renumber 624.643b as 624.682; change the reference 624.643a to 624.681; change the reference 624.65 to 624.651.

136. Renumber 624.644 as 624.67.

137. Renumber 624,645 as 624.691; insert new heading above this section to read "624.69 Documentation."

138. In 624.691, change the reference 624.646 to 624.692; change the reference 624.647 to 624.693; change the references "Exhibit 624.645" to "Exhibit 624.691."

139. In 624.692a(1), change the reference 624.65 to 624.651.

140. In 624.691a(2)(a), change the phrase "and meet the barcode clear zone and OCR readability requirements of 624.441 and 624.443" to "meet the standardized address format requirements in 624.43, and meet the barcode clear zone and OCR readability requirements 624.45 (as referenced in 624.55)".

141. In 624.691a(2)(b), change the reference 624.66b(3)(a) to 624.652b(3)(a).

142. In 624.691a(2)(b), change the phrase "and meet the barcode clear zone and OCR readability requirements of 624.442 and 624.443" to "meet the standardized address format requirements in 624.43; and meet the barcode clear zone and OCR readability requirements of 624.45 (as referenced in 624.55)".

143. In the note under 624.691a(2)(b), change the phrase "and meet the OCR readability" to "and meet the standardized address format, OCR readability".

144. In 624.691a(3)(b), change the phrase "and do not meet the barcode clear zone and OCR readability requirements of 624.442 and 624.443" to "and do not meet the standardized address format, barcode clear zone, and OCR readability requirements of 624.45 (as referenced in 624.55)".

145. In the note under 624.691a(3)(c), change the phrase "and meet the OCR readability" to "and meet the standardized address format, OCR readability,".

146. In 624.691b, change the reference 624.646 to 624.692.

147. In 624.691b(1), change the reference 624.65 to 624.651.

148. In the note under 624.691b(1), change the phrase "to meet the OCR readability requirements" to "to meet the standardized address format, or OCR readability requirements".

149. In 612.691b(2)(a), change the phrase, "and meet the barcode clear zone and OCR readability requirements in 624.442 and 624.443" to "meet the standardized address format requirements in 624.43; and meet the barcode clear zone and OCR readability requirements in 624.45.

150. In 624.691b(2)(b), change the reference 624.66b(3)(a) to 624.652b(3)(a).

151. In 624.691b(2)(b), change the phrase "and meet the barcode clear zone and OCR readability requirements of 624.442 and 624.443" to "meet the standardized address format requirements in 624.43; and meet the barcode clear zone and OCR readability requirements of 624.45.

152. In the note under 624.691b(2)(b), change the phrase "and meet the OCR readability" to "and meet the standardized address format, OCR readability,".

153. In 624.691b(3)(b), change the phrase "and do not meet the barcode clear zone and OCR readability requirements of 624.442 and 624.443" to "and do not meet the standardized address format requirements in 624.43, or the barcode clear zone and OCR readability requirements of 624.45".

154. In the note under 624.691b(3)(b), change the phrase "and otherwise meet the OCR readability" to ", meet the standardized address format, OCR readability".

155. Renumber Exhibit 624.645 (p. 1) as Exhibit 624.691 (p. 1); revise the first footnote to read as follows:

* Does NOT include pieces prepared with a window in the barcode clear zone. The address must meet the standardized and complete address requirements, including the requirement for the correct numeric ZIP + 4 code, and be OCR readable.

156. Renumber Exhibit 624.645 (p. 2) as Exhibit 624.691 (p. 2); revise the first footnote to read as follows:

*Does NOT include pieces prepared with a window in the barcode clear zone. The address must meet the standardized and complete address requirements, including the requirement for the correct numeric ZIP + 4 code, and be OCR readable.

157. Renumber 624.646 as 624.692.

158. In 624.692, change the reference 624.645 to 624.691.

159. In 624.692a, change the reference 624.65 to 624.651.

160. In 624.692b, change the reference 624.65 to 624.651.

161. Renumber 624.647 as 624.693.

162. In 624.693, change the reference 624.645 to 624.691.

163. Insert new 624.64 as follows:

624.64 Accuracy of ZIP + 4 Barcoding—Addressing and ZIP + 4 Database Matching Requirements.

.641 Complete Address Required.

a. *General.* To ensure accurate matching of the address to the finest level of ZIP + 4 code as required in section 624.63, complete addresses are required on all pieces in a ZIP + 4 barcoded rate mailing that bear a ZIP + 4 barcode. A complete address is one which contains all delivery address elements, such as firm name, address (street) number, predirectional, street name, suffix, post directional, secondary address unit designator and number (e.g. APT 202, STE 100, etc.) or rural route number and box number (e.g. HC 4 Box 45), or post office box number (e.g. PO BOX 458), necessary to obtain an exact match with the ZIP + 4 file currently in effect to the finest level of ZIP + 4 code. A complete address must also contain the correct city and state. Only approved last line (city or place) names as described in the city-state file currently in effect may be used. The address on each piece in the mailing must also bear either the correct 5-digit ZIP Code or the correct ZIP + 4 code. Pieces with addresses that do not meet the complete address requirements do not qualify for ZIP + 4 or ZIP + 4 barcoded rates and further, must not show a ZIP + 4 code in the address or a ZIP + 4 barcode on the mailpiece.

b. *Secondary Address Units.* Firm names and secondary address unit designators and numbers that show the specific apartment, building, floor, suite, unit, room, department, etc., are required to appear in the address on the mailpiece when such firm names or unit designators are necessary to obtain a match with the finest level of ZIP + 4 code in the ZIP + 4 database. In instances where a firm name or secondary address unit number is needed to obtain the finest level of ZIP + 4 code but is not known, the address that appears on the mailpiece must not bear a ZIP + 4 code and the piece must not bear a ZIP + 4 barcode. This means that alternative or default ZIP + 4 codes for a building are not acceptable on mailpieces entered at the ZIP + 4 barcoded rates or the basic ZIP + 4 or 5-digit ZIP + 4 rates when finer ZIP + 4 codes for apartment ranges, floors, suites, firms, etc., within that building are listed in the USPS ZIP + 4 database.

Note: To enhance delivery of mailpieces, mailers should make every effort to place secondary address unit designators and numbers on mailpieces where they exist for an address, even when secondary address unit numbers (or ranges of numbers) are not contained in the ZIP + 4 file for that street address and therefore are not needed to obtain a match with the finest level of ZIP + 4 code.

c. *Rural Routes and Highway Contract Routes.* A standardized and complete address for rural routes and highway contract routes contains the rural route or highway contract route number and box number necessary to obtain an exact match with the ZIP + 4 file currently in effect to the finest possible level of ZIP + 4 code. The rural route or highway contract route box number must appear in the address on the mailpiece when it is necessary to obtain the finest level of ZIP + 4 code. In instances where a box number is needed to obtain the finest level of ZIP + 4 code but is not known, the address that appears on the mailpiece must not bear a ZIP + 4 code and the piece must not bear a ZIP + 4 barcode. This means that alternative or default ZIP + 4 codes for the route are not acceptable on mailpieces entered at the ZIP + 4 barcoded rates or the basic ZIP + 4 or 5-digit ZIP + 4 rates, when finer ZIP + 4 codes for specified box number ranges within that route are listed in the USPS ZIP + 4 database.

Note: To enhance delivery of mailpieces, mailers should make every effort to place box numbers for rural routes and highway contract routes on mailpieces where they exist for an address, even when box numbers (or ranges of box numbers) are not contained in the ZIP + 4 file for that route and therefore are not needed to obtain a match to the finest level of ZIP + 4 code.

e. *Post Office Box Addresses.* Post office box addresses must contain a post office box number that can be exactly matched with the ZIP + 4 file currently in effect.

.642 Requirements for Obtaining Standardized Addresses and ZIP + 4 Codes

a. *Permissible Methods.* Any of the methods listed below for obtaining correct ZIP + 4 coding information to apply barcodes (and/or correct ZIP + 4 numeric codes if mailers wish to obtain the basic ZIP + 4 or 5-digit ZIP + 4 rates on non-ZIP + 4 barcoded pieces in the mailing as described in 624.612) and for determining if addresses are complete may be used. No other methods are permissible.

(1) National Change of Address (NCOA) process.

(2) Coding Accuracy Support System (CASS) certified matching software for ZIP + 4 matching.

(3) USPS diskette ZIP + 4 coding service.

(4) PC or mini-computer based manual look-up system that uses CASS certified software.

b. *Up-to-Date CASS Certification and ZIP + 4 Database.* The ZIP + 4 matching software described in 624.642a(1) through (4) must, at the time of ZIP + 4 coding, have a valid CASS certification and use the current USPS ZIP + 4 base file that has been updated with all monthly or quarterly change transaction files pertaining to that base file.

c. *Date of Matching.* Addresses in mailings must have been matched using the ZIP + 4 matching software and current ZIP + 4 database described in 624.642b to obtain the correct ZIP + 4 barcode (and correct ZIP + 4 numeric code if mailers wish to obtain basic ZIP + 4 or 5-digit ZIP + 4 rates on non-ZIP + 4 barcoded pieces as described in 624.612) within 6 months of the mail entry date.

d. *Matching Rules.* Software parameter options governing the matching logic or rules used in certified software that could result in applying an incorrect ZIP + 4 barcode to the mailpiece, or a ZIP + 4 barcode that does not represent the finest level of ZIP + 4 code for the address must not be used. If the address output to the address can be changed, any decisions made by the software in determining the ZIP + 4 code must be output to the address. For example, if a mailpiece for a given city and ZIP Code contains the address 123 Mail Street, and the ZIP + 4 file shows both a North Main Street and a South Main Street for that city, and each has a street address number range that includes 123, the software matching logic either must not assign a ZIP + 4 code and ZIP + 4 barcode to the mailpiece (since this is not a complete address as required in 624.641), or must assign one of the directionals to the address. If a directional is assigned to the address, the address output to the mailpiece must include the directional and the barcode printed on the mailpiece must be the correct one for the directional printed on the mailpiece. If the address output to the mailpiece cannot be changed, such as in OCR processing, the matching logic used must prevent application of a ZIP + 4 barcode to mailpieces with an incomplete or inaccurate address.

.643 Required Documentation.

a. *A Vendor's CASS Certified Software.* Mailers must submit a copy of Form 35XX with each ZIP + 4 barcoded rate mailing. A copy of the vendor's CASS certification, a copy of the invoice, as well as a copy of the job specification and/or output report(s) that show services were received from the CASS certified vendor must be attached to the Form 35XX. The documents must show the date the services were performed, the total number of addresses submitted for coding, and the total number of addresses successfully ZIP + 4 coded and/or ZIP + 4 barcoded.

Note: National Change of Address (NCOA) licensees and the USPS (when USPS diskette coding service is used) are considered CASS certified vendors.

b. *A Mailer's CASS Certified Software.* Mailers using their own software that has a valid CASS certification must submit with each ZIP + 4 mailing a copy of Form 35XX. A copy of their CASS certification and internal records showing the date the mailing list was coded, the total number of addresses on the list, and the total number of addresses on the list that were successfully ZIP + 4 coded and/or ZIP + 4 barcoded must be attached to the Form 35XX.

c. *Mailings Comprised of or Derived from Several Different Mailing Lists.* When a mailing is comprised of addresses from several different mailing lists that may each have been ZIP + 4 coded and/or ZIP + 4 barcoded by different methods or different mailers or vendors, the documentation described in 624.643a and b must be provided for each mailing list included in the mailing. Example: A mailing contains addresses

from Mailing List A that was ZIP + 4 coded by a CASS certified vendor, and addresses from part of Mailing List B that was ZIP + 4 coded with the mailer's CASS certified software. This mailing must be accompanied by a single Form 35XX, the supporting documents described in 624.643a (for Mailing List A) and the supporting documents described in 624.643b (for Mailing List B).

.644 *Obtaining CASS Certification.* Mailers must write or call the National Address Information Center at the following address to arrange for testing of their ZIP + 4 matching software.

CASS/ZIP + 4 MATCHING
NATIONAL ADDRESS INFORMATION CENTER
6060 PRIMACY PKY STE 101
MEMPHIS TN 38188-0001

Toll-free line: 1-800-238-3150
or in Tennessee: 1-800-233-0453

.645 *Obtaining ZIP + 4 Code Products.* Mailers may order ZIP + 4 products as described in 624.432e.

164. Renumber 624.65 as 624.651 and change the title to read "ZIP + 4 Barcode Physical Requirements."

165. Add a new section heading above 624.651 to read "624.65 Barcode Requirements."

166. Delete 624.651a (previous section 624.65a).

167. Renumber 624.65b as 624.651a; change the references "Exhibit 624.65b" to "Exhibit 624.651a."

168. Delete 624.65 c and d and replace them with new 624.651 b, c, and d that read as follows:

b. *Barcode Location.* The location of the ZIP + 4 barcode must be on the address side of the mailpiece and within a clear space known as the "barcode clear zone," which must be free of any printing other than the barcode. The barcode clear zone extends ⅝ of an inch from the bottom and at least 4½ inches from the right edge of the mailpiece. Within the barcode clear zone, the left-most bar of the barcode must be located between 3¼ inches and 4 inches from the right edge of the mailpiece (the horizontal position of the barcode). The vertical position of the barcode must be in the area between 3/16 of an inch and 7/16 of an inch from the bottom of the mailpiece. The bottom of the bars must be positioned ¼ of an inch (plus or minus 1/16 of an inch) from the bottom edge of the mailpiece (see Exhibit 624.651b). These horizontal and vertical placement limits form the rectangular "barcode read area." The entire barcode must be completely contained within the barcode read area. See Exhibit 624.651b. ZIP + 4 barcodes may be printed on inserts that will appear through a window on an envelope provided the window on the envelope and the barcode on the insert meet the specifications in 624.651h.

Note 1: Upon deployment of Wide Area Barcode Readers (WABCRs) which is expected to occur sometime in 1991, printing and markings in the barcode clear zone will be acceptable provided they do not lower the background reflectance to less than 50 percent in the red and 45 percent in the green portion of the optical spectrum.

Note 2: Upon deployment of the Advanced Bar Code (ABC) system, the barcode clear zone and read areas will be moved ¼ of an inch further to the left for those mailers printing barcodes in the lower right corner of the mailpiece. That is, the barcode clear zone will extend 4¾ inches from the right edge of the mailpiece, and the left-most bar of the barcode must begin between 4¼ and 3½ inches from the right edge of the mailpiece.

c. *Barcode Dimensions and Spacing.* A full bar must be .125± .010 of an inch in height. A half bar must be .050± .010 of an inch in height. The width of all bars must be equal and must be .020± .005 of an inch. Horizontal spacing of the bars must be 22±2 bars per inch. Pitch (a bar and a space) must be at least .0416 of an inch and no greater than .050 of an inch. The spacing (a clear vertical column) between bars must never be less than .012 of an inch.

d. *Background Reflectance.* The material on which the barcode will appear (envelope, card, insert material, or outermost sheet) must produce a background reflectance of at least 50 percent in the red and 45 percent in the green portions of the optical spectrum. (White and pastel colors generally satisfy this requirement.) The reflectance measurements shall be made with a USPS envelope reflectance meter.

169. Renumber Exhibit 624.65b as Exhibit 624.651a.

170. Renumber Exhibit 624.65c as Exhibit 624.651b.

171. Renumber 624.65 e through h as 624.651 e through h.

172. Change the title of 624.651e from "Background Contrast" to "Background and Barcode Reflectance Difference."

173. In 624.651h, add a new subsection 624.651h(1)(e) to read as follows:

(e) The top edge of the window must be at least ⅝ of an inch from the bottom of the mailpiece.

174. Delete 624.651h(2)(b).

175. Renumber 624.651h(2)c as 624.651h(2)(b).

176. Insert note under new 624.651h(2)(b) as follows:

Note: Upon deployment of Wide Area Barcode Readers (WABCRs) which is expected to occur sometime in 1991, printing and markings in the barcode clear zone will be acceptable provided they do not lower the background reflectance to less than 50 percent in the red and 45 percent in the green portion of the optical spectrum.

177. Delete 624.651h(2)(d) and insert new 624.651h(2) (c) and (d) as follows:

(c) The barcode must meet the location requirements in 624.651b. These location requirements must be met when the insert is moved to any of its limits within the envelope.

(d) A clear space of at least ⅛ of an inch must be left between the barcode and the top, left and right edges of the window. (There must be no bottom edge to the window as described in 624.651h(1)(b).) This clear space must exist, even when the insert is moved to any of its limits within the envelope.

178. Renumber 624.66 as 624.652.

179. Renumber 624.66a as 624.652a.

180. Renumber 624.66b as 624.652b.

181. In 624.652b(1) change the reference 624.65 d through h to 624.561 c through h; change the reference 624.66b (2) and (3) to 624.652b (2) and (3).

182. In 624.652b(2) change the reference 624.65b to 624.651a; change the reference Exhibit 624.65b to Exhibit 624.651a.

183. In 624.652b(3)(a) change the reference 624.65c to 624.651b; change the reference Exhibit 624.66b(3) to Exhibit 624.652b(3).

184. In 624.652b(3)(b) change the reference 624.65c to 624.651b.

185. Insert new 624.66 to read as follows:

624.66 *Physical Requirements.* Each piece in the mailing must meet the physical requirements for automation compatibility in 624.441 through 624.444. In addition, poly-wrapped or poly-bagged pieces are not permissible at the barcoded rates.

PART 629—MAILPIECE CHARACTERISTICS

186. Add the following to the end of 629.32:

"See 624.43, 624.53 and 624.63 and 624.64 for a further definition of a correct ZIP + 4 code and further requirements for addressing of mailings at the basic ZIP + 4, 5-digit ZIP + 4 and ZIP + 4 barcoded rates."

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

[FR Doc. 90-23245 Filed 10-2-90; 8:45 am]

BILLING CODE 7710-12-M

federal register

Wednesday
October 3, 1990

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 23

Small Airplane Airworthiness Review Program; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 26344; Notice No. 90-23]

RIN 2120-AD30

Small Airplane Airworthiness Review Program Notice No. 3

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes changes to the powerplant and equipment airworthiness standards for normal, utility, acrobatic and commuter category airplanes that are based on certain proposals and recommendations discussed at the Small Airplane Airworthiness Review Conference held on October 22–26, 1984, in St. Louis, Missouri. These proposals arise from the recognition, by both government and industry, that updated safety standards are needed to maintain an acceptable level of safety in the design requirements for small airplanes that are used in both private and commercial operations. The proposed changes, if adopted, would provide design requirements applicable to advancements in technology being incorporated in current designs and reduce the regulatory burden in showing compliance with some requirements while maintaining an acceptable level of safety.

DATES: Comments must be received on or before April 1, 1991.

ADDRESSES: Comments on this notice may be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–10), Docket No. 26344, 800 Independence Avenue, SW., Washington, DC 20591, or delivered in triplicate to: Room 915–G, 800 Independence Avenue, SW, Washington, DC 20591. Comments delivered must be marked Docket No. 26344. Comments may be inspected in room 915–G between 8:30 a.m. and 5:00 p.m. on weekdays, except Federal holidays.

In addition, the FAA is maintaining an information docket of comments in the Office of Assistant Chief Counsel, room 1556, ACE–7, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Missouri 64106. Comments in the information docket may be inspected in the Office of Assistant Chief Counsel weekdays, except Federal holidays, between the hours of 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Ervin E. Dvorak, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 426–5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of each proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adopting the proposals in this notice are invited. Public comments are specifically solicited by this notice on the following subjects:

Proposal 58, Section 23.1143, Engine Controls

Proposal 60, Section 23.1147, Mixture Controls

Athough these two proposals, as evaluated with the data currently available to the FAA, do not show a positive quantitative economic benefit, the FAA has included these proposals in this notice and is soliciting public comments that may provide additional information as to cost and safety benefits that may result from the adoption of these proposals.

Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking further rulemaking action. Commenters wishing the FAA to acknowledge receipt of comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 26344." The postard will be date stamped and returned to the commenter. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Inquiry Center, (APA–200), 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on the mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

The FAA announced the Small Airplane Airworthiness Review Program and invited all interested persons to submit proposals for changes to part 23 of the FAR (48 FR 4290, January 31, 1983; Notice No. CE–83–1). The Review Program objective was to encourage public participation in improving and updating the airworthiness standards applicable to small airplanes.

In response to requests from interested persons, the FAA issued Notice No. CE–83–1A, which reopened the period for submission of proposals. This action (48 FR 26623, June 9, 1983) was based upon an FAA determination that it would be in the public interest to allow more time for the public and the aviation industry to submit their proposals.

By the close of the reopened proposal period on May 3, 1984, the FAA had received approximately 560 proposals in response to Notice Nos. CE–83–1 and CE–83–1A. On July 25, 1984, the FAA issued Notice No. CE–84–1 (49 FR 30053), Availability of Agenda, Compilation of Proposals, and Announcement of the Small Airplane Airworthiness Review Program Conference. The conference to discuss these proposals was held October 22–26, 1984, in St. Louis, Missouri. A copy of the transcript of all discussions held during the conference is filed in the docket, Docket No. 23494.

Notice No. 1 of the Small Airplane Airworthiness Review Program was directed toward improvement of crashworthiness and the final rule was published, as amendment 23–36 (53 FR 30802, August 15, 1988). Notices numbered 2 and 5 address issues of specific concern in past and current certification programs and they were published in the **Federal Register** (54 FR 9276 and 54 FR 9338, March 6, 1989). Notice No. 4 addresses flight and structures issues not addressed in previous notices. This notice addresses systems and powerplant issues.

A number of proposals were submitted to the conference that did not result in proposed changes to part 23. The FAA's decision to take no further regulatory action on those proposals is based on information gained at the

conference or during post-conference review. The regulatory sections are included below along with the explanation of why no action was taken to amend the rule.

No action is being taken to amend § 23.939.

Explanation: Conference proposal 323 recommended adding a new § 23.939(b) to require turbocharged engine installations meet certain detailed operation, test, and mechanical requirements. Comments at the conference did not support this proposal; therefore, proposal 323 will receive no further consideration.

Reference: Conference proposal 323.

No action is being taken to amend § 23.954.

Explanation: Conference proposal 328 recommended deleting the fuel system lightning protection requirements for conventional light airplanes of less than 3000 pounds because lightning protection is not needed for this class of airplane. Conference commenters did not support such a change in part 23. It cannot be ensured that any aircraft will not be exposed to lightning; therefore, proposal 328 will received no further consideration.

Reference: Conference proposal 328.

No action is being taken to amend § 23.1105.

Explanation: Conference proposal 394 recommended revising § 23.105(b) to limit the current rule to airplanes over 1500 pounds maximum weight. The proposal was withdrawn without conference discussion; therefore, the FAA plans no further action on this proposal.

Reference: Conference proposal 394.

No action is being taken to amend § 23.1182.

Explanation: Conference proposal 408 recommended adding interpretive material to § 23.1182 for airplanes of not more than 3000 lbs. maximum weight. The proposal was withdrawn at the conference without discussion; therefore, the FAA plans no further action on this proposal.

Reference: Conference proposal 408.

No action is being taken to amend § 23.1301.

Explanation: Conference proposal 417 recommended that the applicability of § 23.1301 for airplanes with a maximum weight of 3,000 pounds or less be limited to that equipment required by the operating regulations and those that are essential for safe operations. Since amendment 23–20, section 23.1301 has required that all installed equipment, whether optional or required, meet the functional and installation requirements applicable to essential equipment. Most airplanes certificated to Part 23 requirements have installed optional equipment, such as cigarette lighters, unrequired instrumentation, instrumentation that is redundant to required instrumentation, and so forth. Frequently, operations are predicated on use of optional equipment. In such operations, it is essential to safety for the affected optional equipment to perform its intended function. Therefore, the FAA considers it necessary to retain the requirements of this section. Since the conference, FAA has issued amendment 91–206 (53 FR 239, December 13, 1988), with an effective date of December 13, 1988. This amendment revises part 91 to permit rotorcraft nonturbine-powered airplanes, gliders, and lighter-than-air aircraft, for which an approved Master Minimum Equipment List has not been developed, to be operated with certain inoperative instruments and equipment that are not essential for the safe operation of the aircraft. These rules permit operation of an aircraft with inoperative instruments and equipment within the framework of a controlled program of maintenence inspections, repairs, and parts replacements. Basically, the only instruments and equipment that are permitted to be inoperative, and only for certain situation, would be unneeded communications and navigation radios, convenience equipment, optional installed instruments and equipment and those instruments and equipment not required by § 91.33 for the kind of flight operation being conducted. Since this final rule addresses the concerns of this conference proposal, no further action is being taken on conference proposal 417.

Reference: Conference proposal 417.

No action is being taken to amend § 23.1353.

Explanation: Conference proposal 458 recommended revising § 23.1353(g) by adding the word "or" between paragraphs (g)(1) and (g)(2) so there would be an alternative design permitted. The regulations now provide for three alternatives since there is an "or" between paragraphs (g)(2) and (g)(3). Therefore, the "or" between paragraphs (g)(1) and (g)(2) is understood. Conference proposal 457 recommended revising § 23.1353(g) so that a low energy charging power source would be acceptable, but it was withdrawn after the discussion of conference proposal 458.

Reference: Conference proposals 457 and 458.

No action is being taken to amend § 23.1413.

Explanation: Conference proposal 466 recommended replacing the specific requirement for the latching device, that is, the metal to metal latching device in § 23.1413, with objective words. This proposal was opposed at the conference since other acceptable methods have not been shown. Metal to fabric latching devices or buckles have been shown to wear, deteriorate and fail in survivable crashes.

Amendment 23–32 (50 FR 46872, November 13, 1985) amended the shoulder harness requirements but it did not amend § 23.1413 to extend the metal to metal latching device requirement to harnesses. The FAA does not believe any lesser quality latching device should be used for harnesses than is allowed for safety belts. Since the conference, § 23.1413 was revised by amendment 23–36 (53 FR 30802, August 15, 1988), effective September 14, 1988, to require that each safety belt and shoulder harness be equipped with a metal to metal latching device.

Reference: Conference proposal 466.

No action is being taken in this notice for conference proposal 517a.

Explanation: Conference proposal 517a recommended amending several sections of part 23, primarily in the fuel system area, to require improved post-crash fire protection. The proposal was based on National Transportation Safety Board (NTSB) Recommendations A–80–90, –91, and –92. The extensive discussion at the conference only addressed the concept of improved crash resistance of fuel systems as presented by the sponsor. No details of proposed rule changes were discussed. These NTSB recommendations were addressed in a separate notice of proposed rulemaking on crash resistant fuel systems for part 23 airplanes and will not be considered further in this notice.

Reference: Conference proposal 517a.

Regulatory Evaluation Summary

Benefit-Cost Analysis

The FAA is required to examine the potential benefits and costs of each proposed rulemaking action to ensure that the public is not burdened with rules where costs outweigh their benefits. This section contains an evaluation that quantifies, to the maximum possible extent, the potential costs and benefits expected to accrue from updating the airworthiness standards for part 23 airplanes.

This NPRM addresses the powerplants and equipment requirements of part 23 airplanes. The various powerplant sections include general provisions for installation, certification, and protection of engines

and propellers; and specific provisions for fuel systems and their components, oil systems, cooling systems, induction systems, exhaust systems, powerplant controls, accessories, and fire protection. The sections on equipment include general standards for installation and performance, and specific standards for instrument installation, electrical systems and equipment, lights, safety equipment, and miscellaneous equipment.

The FAA estimates that the cost of compliance that is expected to accrue from implementation of the proposed rule would be $51,000 (discounted, in 1989 dollars) between 1990 and 1999. This assessment is based on the belief that only proposed §§ 23.1143 (Engine Controls) and 23.1147 (Mixture Controls) would impose greater than negligible but less than significant costs on aircraft manufacturers.

Although the proposed rule would incorporate minor to major changes to powerplant and equipment requirements of part 23, most of such changes are expected to impose negligible costs on manufacturers. Many of the proposed changes are simply a formalization of requirements that the small airplane industry is already satisfying, some proposed changes clarify or simplify the rules, and others are intended to have greater impact on enhancing safety.

Some of the proposed rule changes would require manufacturers to either redesign their components or equipment, to install additional equipment, or to conduct additional tests for certification. Most of these requirements would have negligible impacts on manufacturers because almost none of the requirements would be retroactive. Manufacturers would not be required to change their airplanes to comply with the proposed requirements. Because of the depressed state of the general aviation industry, which is likely to continue in the near future, considerably fewer airplane designs are expected to appear on the market than in the past. This would reduce the extent of costs that the industry would have to bear.

Cost-Benefit Effect of Proposed Sections 23.1143 (Engine Controls) and 23.1147 (Mixture Controls)

Section 23.1143 would require an adequate backup in the event of failure of the pilot's control installation to the fuel metering device. Section 23.1147 would require that, in the event of failure to the pilot's control installation, the mixture control device be automatically positioned at the full-rich setting.

Costs

Proposed § 23.1143 would not have significant cost impacts on airplane piston engine manufacturers. The proposal would not present a major design problem for manufacturers of reciprocating engines. This assessment is based on the informed judgment of FAA personnel and information received from industry. The total cost of designing a newly type certificated piston engine is estimated to be as high as $21 million (in 1989 dollars). The design cost for this proposal (engine controls) cannot be separated from the proposal for mixture controls (§ 23.1147). The combined design cost associated with these two proposals is estimated to range from $52,000 to $104,000 per newly type certificated engine. This estimate is based on discussions with airplane engine manufacturers and the General Aviation Manufacturers Association (GAMA). This evaluation assumes that only one engine (piston) design will be newly type certificated over the next 10 years (1990–1999), based primarily on the informed judgment of FAA personnel. Thus, the proposal's impact (including proposed § 23.1147) on total design costs is very small and would probably not affect the decision to produce a newly type certificated engine design. Hardware costs would be minimal, probably no more than $5.00 per individual engine, which consists of springs and fasteners.

The $52,000–$104,000 design costs would be distributed over each engine expected to be sold. If the proposal's design costs are distributed over 1,000 engines in the 10 year period, design costs per engine would range between $52–$104. Using the midpoint of this range, design costs are estimated to be $78 per engine. Adding the $5 per engine hardware cost to the newly type certificated engine design costs yields a $83 cost of the proposal per individual engine. Total cost of the proposal over the 10 year period is estimated to be $83 times 1,000 engines or $83,000 ($51,000 discounted, 10 percent, 10 years). All cost estimates are expressed in 1989 dollars.

Benefits

The potential benefits of proposed § 23.1143 (including proposed § 23.1147) would be enhanced safety. Such safety would take the form of a reduced likelihood of aviation accidents resulting in fatalities, injuries (serious and minor), and, to a lesser extent, property damage. According to accident data compiled by the National Transportation Safety Board, which include years 1982 through 1987, there were 71 accidents in part 23 airplanes that resulted in 1 fatality, 10 serious injuries, and 31 minor injuries. There is a high likelihood that these accidents would have been prevented had proposed § 23.1143 (including proposed § 23.1147) been in effect. Adding in the aircraft damage, which is expected to occur from a typical accident in the future involving these airplane engines, and applying monetary values to each category of casualties and damage, the average baseline annual risk exposure amounts to $11,034,000 (1989 dollars). This benefit estimate embodies global parameters in regard to the number of occupants per accident, injury distributions, etc., rather than reliance on those associated with the 71 baseline accidents. This approach is employed because there is a greater probability that future accidents would be characterized by the global parameters rather than the historic 71 accidents. Global in this evaluation refers to potential benefit estimates that take into account typical passenger (including pilot) load factors of future accidents that would involve single and multiengine (reciprocating) airplanes rather than reliance on what actually took place in the historic 71 accidents. This approach also makes the same considerations for aircraft damage, though this does employ a higher degree of uncertainty. This approach is considered to be more realistic of what we can reasonably expect in the future in the event of a typical accident related to these engines in the absence of these two proposed amendments.

The potential benefits of proposed § 23.1143 are estimated for the 10 year period 1990–1999. The benefit estimate is based on the premise that 1,000 newly type certificated reciprocating engines, which are assumed to be installed primarily in airplanes produced under amended type certificates, will be produced over the 10 year period. After taking into account the proportion of newly type certificated piston engines expected to come into U.S. service relative to the number of engines in the existing airplane fleet, the potential reduction in risk exposure is estimated to be $301,000 ($158,000 discounted, 10 percent, 10 years) over the next 10 years. This potential benefit estimate of $301,000 is based on a recent revision by the FAA in accordance with guidelines issued by The Office of the Secretary of Transportation, dated June 22, 1990. This revision was done in order to better provide the public and government officials with a benchmark comparison of expected safety benefits of rulemaking actions over an extended period of time with estimated costs in

dollars. Therefore, as the result of this revision, the FAA currently uses a minimum value of $1.5 million to statistically represent a human fatality avoided. In addition, the FAA uses $640,000 and $2,300 for serious and minor injury values. Other critical values have also been revised.

The cost-benefit analysis of these proposed amendments, taken together, shows that the total potential benefits ($158,000) outweigh the total estimated costs ($51,000) by a factor of 3.1. As noted above, this benefit estimate of $158,000 is based on data in addition to that for these two proposed amendments. Such data have supplemented what was found in the accidents database by adjusting for typical passenger load factors and aircraft damages. These additional data adjustments reflect a more realistic approach as to the outcome of a typical accident involving single and multiengine (reciprocating) airplanes. Since the estimated implementation cost of $83.00 per newly installed engine sold is viewed as minor, coupled with the belief that potential safety benefits would at least be equal to the per engine cost, these two proposed amendments are considered to be cost-beneficial.

On balance, the FAA believes that all of the proposed amendments are cost-beneficial.

The Regulatory Evaluation that has been placed in the docket contains additional information related to the costs and benefits that are expected to accrue from implementation of the proposed rule.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review rules that may have a "significant economic impact on a substantial number of small entities."

This NPRM would amend part 23 of the Federal Aviation Regulations. Part 23 prescribes airworthiness standards for the issue of type certificates for normal, utility, acrobatic, and commuter category airplanes. Under the criteria of the RFA, the FAA has determined that the proposed rule would not have a significant economic impact on a substantial number of small entities. The FAA size threshold for a determination of a small entity for aircraft manufacturers is 75 or fewer employees. A substantial number of small entities is defined as a number that is not fewer than eleven and that is more than one-third of the small entities subject to a proposed or existing rule. A review of domestic general aviation manufacturers indicates that only six companies have 75 or fewer employees. Therefore, this NPRM would not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

This NPRM is expected to have neither an adverse impact on the trade opportunities of U.S. manufacturers of part 23 airplanes doing business abroad nor on foreign aircraft manufacturers doing business in the United States. Since the certification rules are applicable to both foreign and domestic manufacturers, which sell in the United States, there would be no competitive trade advantage to either.

Federalism Implications

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For reasons discussed earlier in the preamble, the FAA has determined that this document (1) involves a proposed regulation that is not major under the provisions of Executive Order 12291, (2) is not significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979), and (3) in addition, I certify that under the criteria of the Regulatory Flexibility Act, this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. In addition, this proposal, if adopted, would have little or no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

List of Subjects in 14 CFR Part 23

Aircraft, Air transportation, Aviation safety, Safety.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend part 23 of the Federal Aviation Regulations (14 CFR part 23), as follows:

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, ACROBATIC, AND COMMUTER CATEGORY AIRPLANES

1. The authority citation for part 23 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1425, 1428, 1429, and 1430; 49 U.S.C. 106(g).

2. Section 23.901 is amended by revising paragraphs (b), (d), and (e), and adding a new paragraph (f) to read as follows:

§ 23.901 Installation.

* * * * *

(b) Each powerplant installation must be constructed and arranged to—

(1) Ensure safe operation to the maximum altitude for which approval is requested.

(2) Be accessible for necessary inspections and maintenance.

(3) Result in vibration characteristics that do not exceed those established during the type certification of the engine.

* * * * *

(d) Each turbine engine installation must be constructed and arranged to provide continued safe operation without a hazardous loss of power or thrust while being operated in rain for at least 3 minutes with the rate of water ingestion being not less than 4 percent, by weight, of the engine induction airflow rate at the maximum installed power or thrust approved for takeoff and at flight idle. The engine must accelerate and decelerate safely following stabilized operation under these rain conditions.

(e) The powerplant installation must comply with—

(1) The installation and operating instructions provided under the engine and propeller type certificates; and

(2) The applicable provisions of this subpart.

(f) Each auxiliary power unit installation must meet the applicable portions of this part.

Explanation: This proposal will clarify the intent of this section by adding the words "powerplant" and "installation" in paragraphs (b) and (e); by adding vibration characteristic requirements for any airplanes; by correcting the reference for installation instructions from § 33.5 to the affected engine and propeller type certificate; by revising the water ingestion requirement to show that the engine installation does not degrade the water ingestion capability of the engine; and by adding an auxiliary power unit installation requirement.

Conference proposal 305 recommended the insertion of the words "or control" into paragraph (a)(2) after the word "safety"

because the definition of what constitutes a powerplant installation should include the "control" of major propulsion units. At the conference, one commenter agreed with the additional words; however, three commenters disagreed. These commenters contended that without a definition of the word "control", the addition would cause more confusion than clarification about what is included in a powerplant installation.

The FAA has further considered this issue and concluded that the purpose of § 23.901(a) is to define an airplane powerplant installation for part 23 so that the requirements that follow would apply to all components of the installation that are necessary for propulsion and that affect the safety of the major propulsive units. It follows that each component that affects safety includes all components needed for control of the major propulsive units. Therefore, the adoption of the additional words "or control" would neither add a substantive requirement not already in the rule, nor clarify the requirement.

Conference proposal 306 recommended that the word "installation" be inserted into § 23.901(b) after the word "powerplant" to clarify the requirement that the following rules apply to those components of the installation that are not already certificated or otherwise approved. During discussion at the conference, one commenter supported the change. The FAA considers it clarifying and has incorporated it into this proposal.

Conference proposal 307 recommended deletion of the word "turbine" from § 23.901(d). Such change would require reciprocating engines to show water ingestion capability at the same level as turbine engines. The consensus of the conference was that this suggested revision was not justified. The FAA agrees with this consensus.

Conference proposal 307 also recommended revising the requirement for rain ingestion capability from "at rated takeoff power or thrust" to "at the maximum power or thrust approved for takeoff." This was not discussed in detail at the conference. The FAA has further considered this issue. Part 33 requires a showing of ingestion capability at rated takeoff power or thrust. In most installations, the rated takeoff power or thrust is approximately equivalent to the maximum power or thrust approved for takeoff on the particular airplane, but there are a number of installations where the maximum approved engine power is substantially derated. Operating the engine at its derated power may place engine operation in a regime where the rain ingestion capability was not demonstrated adequately during type certification of the engine. Substantiation to the proposed requirement will show that the installation of the engine in the airframe, even with derated power, has not impaired the engine's rain-ingestion capability. To remove redundancy and to foster consistency within the FAR, the first four words of § 23.901(d) are revised to read "Each turbine engine installation . . .".

Conference proposal 309 recommended that a new paragraph (f) be added to specify auxiliary power unit installation requirements. At the conference, the commenters agreed that the rule is needed.

Conference proposal 310 recommended that § 23.901(e)(1) be revised by replacing the words "under § 33.5 of this chapter" with the words "under the engine and propeller type certificates" because not all engines installed on new airplanes are certificated under part 33. Some engines in current production were certificated under Civil Air Regulations, part 13, and imported engines are certificated through part 21 and the applicable bilateral agreements. Since the powerplant installation also includes propellers, the FAA has determined that it is appropriate to insert a similar requirement for propeller installation instructions into this section.

Conference proposal 311 recommended a change similar to proposal 310.

The FAA has determined that the turbopropeller vibration requirements should apply to all part 23 airplanes and has deleted the words "commuter category" from paragraph (b)(3) in this proposal.

Reference: Conference proposals 305, 306, 307, 309, 310, and 311.

3. Section 23.903 is amended by revising paragraphs (d)(1) and (e)(2) to read as follows:

§ 23.903 Engines.

* * * * *

(d) * * *

(1) The design of the installation must be such that risk of fire or mechanical damage to the engine or airplane, as a result of starting the engine in any conditions in which starting is to be permitted, is reduced to a minimum. Any techniques and associated limitations for engine starting must be established and included in the Airplane Flight Manual (AFM), approved manual material, or applicable operating placards. Means must be provided for—

(i) Restarting any engine in flight, and

(ii) Stopping any engine in flight, after engine failure, if continued engine rotation would cause a hazard to the airplane.

* * * * *

(e) * * *

(2) There must be means for stopping combustion of any engine and for stopping the rotation of any engine if continued rotation would cause a hazard to the airplane. Each component of the engine stopping system located in any fire zone must be fire resistant. In addition, each component of the engine restarting system located in any fire zone must be fire resistant. If hydraulic propeller feathering systems are used for stopping the engine, the hydraulic feathering lines or hoses must be fire resistant.

* * * * *

Explanation: This proposal will require a means for restarting any engine in flight and will allow continued rotation of any engine after failure if continued rotation will not create a hazard to the airplane, and will clarify the stopping and restarting system fire resistance requirements.

Conference proposal 308 recommended the deletion of the last sentence of current § 23.903(d)(1) because the requirements of § 23.33 are adequate to limit windmilling speeds to reasonable levels, under recommended glide airspeed, after engine failure. After further examination of the cited requirements and the conference discussion, the FAA has concluded that deletion of the last sentence of paragraph (d)(1) is not justified. The requirement of § 23.33 speaks to overspeeding of operating engines while the last sentence of § 23.903(d)(1) refers to overspeeding (windmilling) of a failed engine. Windmilling of a piston engine on a single-engine or multiengine-powered airplane usually is not a hazard. Therefore, the FAA has determined that § 23.903(d) should be revised to allow continued rotation of a piston engine on single-engine and multiengine-powered airplanes after engine failure if continued rotation of the failed engine does not create a hazard. In the third sentence of current § 23.903(d)(1), the words "for multiengine airplanes" are deleted to require the means for restarting engines applicable to any engine for both single and multiengine airplanes.

Conference proposal 312 recommended revising § 23.903(e)(2) to allow windmilling of a shutdown turbine engine where no hazard to the airplane is involved, to require the components of both the stopping and restarting systems on the engine side of the firewall to be at least fire resistant, and to require any propeller feathering hoses involved in the stopping and restarting systems to be at least fire resistant.

Conference proposal 313 recommended revising § 23.903(e)(2) in a similar manner. The justification given for both of these proposals is that turbine engines can windmill safely.

Conference discussion resulted in a consensus that supported these conference proposals. The two proposals contend that most turbine engines can windmill without hazard to the airplane and should not be required to be stopped when no hazard results from continued rotation. Allowing non-hazardous windmilling of an engine removes a burden from the aviation public and is considered relieving in nature. Therefore, the FAA proposes to amend § 23.903(e)(2) to allow non-hazardous windmilling of the engines. Since all requirements relative to stopping and starting engines are appropriate to all categories of part 23 turbine-engine-powered airplanes, the phrase "for commuter category airplanes" is deleted from paragraph (e)(2).

Conference proposal 314 recommended simplified engine requirements for airplanes of not more than 1500 pounds. The consensus of commenters at the conference was that Joint Airworthiness Regulations E and 22 should not be incorporated into part 23. The FAA agrees and will not consider this proposal.

The FAA is proposing the establishment of fire zones in part 23 airplanes in new § 23.1181. Therefore, fire zone terminology has been incorporated in this and several other proposals throughout this notice.

Reference: Conference proposals 308, 312, 313, and 314.

4. Part 23 is amended by adding a new § 23.904 to read as follows:

§ 23.904 Automatic power reserve system.

If installed, an automatic power reserve (APR) system that automatically advances the power or thrust on the operating engine(s), when any engine fails during takeoff, must comply with appendix H of this part.

Explanation: See proposal 96.

5. Section 23.905 is amended by adding paragraphs (e), (f), (g), and (h) to read as follows:

§ 23.905 Propellers.

* * * * *

(e) All areas of the airplane forward of the pusher propeller that are likely to accumulate and shed ice into the propeller disc during any operating condition for which the airplane is certificated must be suitably protected to prevent ice formation, or it must be shown that any ice shed into the propeller disc will not create a hazardous condition.

(f) Each pusher propeller must be marked so that the disc is conspicuous under normal daylight ground conditions.

(g) If the engine exhaust gases are discharged into the pusher propeller disc, it must be shown by tests, or analysis supported by tests, that the propeller is capable of continuous safe operation.

(h) All engine cowling, access doors, and other removable items must be designed to ensure that they will not separate from the airplane and contact the pusher propeller.

Explanation: This proposal adds four requirements for pusher propeller configurations: (1) Ice shedding will not create a hazard; (2) the propeller disc is conspicuously marked; (3) the propeller can withstand engine exhaust gases; (4) and items from the airplane will not separate and contact the propeller. The FAA has received several applications for pusher propeller configurations. The FAA has found these configurations to be novel and unusual design features relative to the applicable requirements. Special conditions were necessary to provide the level of safety intended by the applicable requirements. The FAA has further considered the issues of propeller disc conspicuity, ice likely to be shed into the propeller disc, and engine exhaust gases that are discharged into the propeller disc.

Propeller disc conspicuity is of concern during ground operations. Ground personnel and boarding and deplaning passengers are accustomed to tractor propellers. With pusher propellers, there is a significantly higher probability of inadvertent contact with a turning propeller. Therefore, the FAA is proposing additional requirements for pusher propeller conspicuity. Additional conspicuity of tractor propellers could enhance ground operations safety, but the FAA is concerned that any additional visual attention-getters in the pilot's normal viewing area could adversely affect collision avoidance.

Most propeller installations are subject to ice being shed into them, if only from the propeller spinner. Typically, for tractor propellers, no significant damage results. However, for pusher propellers that are very close to the fuselage and well back from the front of the airplane's nose, ice shed from the forward fuselage, and from the wings may cause significant propeller damage. Therefore, the FAA is proposing requirements to ensure such damage does not cause a hazardous condition.

In most pusher propeller installations, the engine exhaust gases pass through the propeller disc. Many factors affect the temperature of these gases when they contact the propellers and propeller tolerance to these gases varies with propeller design and materials. Therefore, the FAA is proposing requirements to ensure damage to the propellers does not occur as a result of exhaust gas impingement.

In pusher propeller installations, design factors need to be incorporated to ensure that removable items do not separate from the airplane and contact the propeller.

Reference: Conference proposals 315, 316, and special conditions recently promulgated that apply to pusher propellers.

6. Section 23.909 is amended by revising the heading; by removing the workd "turbosupercharger" and replacing it with the word "turbocharger" each time it appears in paragraphs (b) and (c); by revising paragraph (a); and by adding new paragraphs (d) and (e) to read as follows:

§ 23.909 Turbocharger systems.

(a) Each turbocharger must be approved under the engine type certificate or it must be shown that the turbocharger system, while in its normal engine installation and operating in the engine environment—

* * * * *

(d) Each intercooler installation, where provided, must comply with the following—

(1) The mounting provisions of the intercooler must be designed to withstand the loads imposed on the system;

(2) It must be shown that, under the installed vibration environment, the intercooler will not fail in a manner allowing portions of the intercooler to be ingested by the engine; and

(3) Airflow through the intercooler must not discharge directly on any airplane component (e.g., windshield) unless such discharge is shown to cause no hazard to the airplane under all operating conditions.

(e) Engine power, cooling characteristics, operating limits, and procedures affected by the turbocharger system installations must be evaluated. Turbocharger operating procedures and limitations must be included in the Airplane Flight Manual in accordance with § 23.1581 of this part.

Explanation: This proposal expands and clarifies the intent of the requirements for turbocharger system standards by adding an engine/turbocharger operating environment requirement and intercooler installation requirements.

Conference proposal 317 recommended revising § 23.909(a) to require that turbochargers be compatible with the engine environment in which turbochargers will be expected to operate. The justification given was that the current rule has been interpreted as allowing turbochargers to be approved as part of the airplane type design rather than as part of the engine type design. Current § 23.909(a)(1) allows a bench test of the turbocharger system by itself; it need not be installed on an engine. This test does not subject the turbocharger system to the engine environment, nor the engine to the turbocharger environment. The FAA concludes that it is necessary to test the turbocharger and the engine as a unit, and incorporates the proposal as recommended.

Conference proposal 318 recommended revising § 23.909(a)(1) to require that the turbocharger undergo an additional 500 hours of flight testing, including at least 400 hours of operation at 75 percent cruise power or normal cruise power for the engine with which it is installed. The objective is the same as the previously cited conference proposal 317. The justification cited mismatches in turbocharger/engine combinations; however, consensus of the conference discussion was opposed to this proposal because such prolonged testing is not needed. The FAA agrees and conference proposal 318 will not receive further consideration.

Although it was not discussed at the conference, the FAA is aware of the trend toward adding intercoolers into turbocharger systems and has determined that there is a need for airworthiness standards for such installations. Therefore, the FAA has developed proposed standards for intercoolers covering mounting loads, vibration environment, and the cooling airflow exhaust. The standards are incorporated into new paragraph (d) of this proposal.

The FAA has determined that engine power, cooling characteristics, operating limits, and procedures attributable to the turbocharger system must be evaluated and documented in the Airplane Flight Manual. These requirements are incorporated into new paragraph (e) of this proposal. Since this proposal addresses the total turbocharger system installation, the section heading is revised by adding the word "systems".

Reference: Conference proposals 317 and 318.

7. Part 23 is amended by adding a new § 23.911 to read as follows:

§ 23.911 Propulsion drive system design.

Propulsion drive systems as defined in paragraph (a) of this section must meet the requirements as set forth in §§ 23.911 through 23.921 of this part.

(a) The propulsion drive system includes all parts necessary to transmit power from the engine(s) to the propeller(s) that have not been approved as part of the engine(s) or propeller(s). This includes couplings, universal joints, drive shafts, supporting bearings for shafts, brake assemblies, clutches, gear boxes, transmissions, any attached accessory pads or drives, and any cooling fans that are attached to, or mounted on, the propulsion drive system.

(b) Each propulsion drive system powered by more than one engine must be arranged so that the propeller and its control will continue to be operated by the remaining engine(s) if any engine fails.

(c) Each multiengine propulsion drive system must incorporate a device to automatically disengage any engine from the propeller if that engine fails.

(d) If a transmission is torque limited, a means to prevent exceeding the torque limit must be provided unless it can be shown by design and tests that the torque limit cannot be exceeded.

(e) The oil for components of the propulsion drive system that require continuous lubrication must be sufficiently independent of the lubrication systems of the engine(s) to ensure operation with any engine inoperative.

(f) There must be cooling provisions to maintain the fluid temperatures in any propulsion drive transmission within design values under any critical ground and flight operating condition. Compliance must be shown by ground and flight tests.

(g) Torque limiting means must be provided on all accessory drives that are located on the propulsion drive system in order to prevent the torque limits established for those drives from being exceeded.

(h) There must be provisions to minimize the hazards resulting from failure of an engine to transmission drive shaft such that the airplane can continue flight to a safe landing.

(i) A positive means must be provided to indicate that an engine is inoperative, or it must be determined that required instruments will readily alert the pilot when an engine is inoperative.

(j) In addition to the propulsion drive system complying with the requirements in § 23.903(c), the installed propulsion drive system powered by more than one engine must be—

(1) Designed so that torque to the propeller is not interrupted after failure of any engine or element in the propeller drive system; and

(2) Examined in detail to determine all components and their failure modes that would be critical to the continued safe flight and landing of the airplane. For each component and its failure modes identified by this examination, it must be shown—

(i) By appropriate test that such a failure is not likely to occur in the system component's service life established by these tests; or

(ii) That the system is designed so continued safe flight and landing can be accomplished after occurrence of the failure.

(k) The following applies to the propeller pitch control—

(1) No loss of normal propeller pitch control may cause hazardous overspeed of the propeller under all intended operations.

(2) Each propeller pitch control and pitch locking (safety) device must be subjected in tests to cyclic loading that simulates the frequency and amplitude to which the components would be subjected during 1,000 hours of propeller operations.

(3) Compliance with paragraph (k)(2) of this section may be shown by a rational analysis based on the results of tests on similar components.

Explanation: This proposal, and several related proposals, presents requirements for propulsion drive systems that are designed to connect the engine(s) with the propeller(s) when they are not joined directly and are not approved as part of the engine type design. The FAA has received applications for approval of this type system, which is novel and unusual relative to the applicable requirements. In response to these applications, it is required by § 21.16 that special conditions be established. To preclude the need for further special conditions, the FAA is introducing the requirements into part 23.

Reference: Cited special conditions.

8. Part 23 is amended by adding a new § 23.913 to read as follows:

§ 23.913 Propulsion drive system limitations.

(a) The propulsion drive system limitations must be established so that they do not exceed the corresponding limits approved for the engine, propeller, and drive system components.

(b) For all engines, takeoff operation must be limited by—

(1) The powerplant maximum rotational speed for takeoff operation and the maximum rotational propeller speed may not be greater than the values determined by the drive system type design or the maximum value shown during type tests.

(2) The maximum allowable temperature for the transmission oil.

(3) The time limit for the use of power, gas temperature, and speed corresponding to the limitations established in paragraphs (b) and (c) of this section.

(c) For turbine engines, takeoff operation must also be limited by—

(1) The powerplant maximum allowable gas temperature at maximum allowable power or torque for each engine considering the power input limitations of the transmission with all engines operating; and

(2) The powerplant maximum allowable gas temperature at maximum allowable power or torque for each engine considering the power input limitations of the transmission with one engine inoperative.

(d) For all engines, continuous operation must be limited by—

(1) The powerplant maximum rotational speed for continuous operation. The maximum rotational propeller speed may not be greater than the values determined by the drive system type design maximum value shown during type tests;

(2) The maximum allowable temperature for the transmission oil;

(3) A low oil quantity warning; and

(4) A low oil pressure warning.

(e) For turbine engines, continuous operation must also be limited by—

(1) The powerplant maximum allowable gas temperature for continuous operation and the maximum allowable power or torque for each engine considering the power input limitations of the transmission with all engines operating; and

(2) The powerplant maximum allowable gas temperature at maximum allowable power or torque for each engine considering the power input limitations of the transmission with one engine inoperative.

(f) Ambient temperature limitations (including limitations for winterization installations if applicable) must be established as the maximum ambient atmosphere temperature at which compliance with the cooling provisions of §§ 23.1041 through 23.1045 is shown.

Explanation: See proposal 7.

9. Part 23 is amended by adding a new § 23.915 to read as follows:

§ 23.915 Propulsion drive system instruments.

In addition to the requirements of § 23.1305 of this part, the following

instruments must be provided for any gear box or transmission:

(a) An oil pressure warning device for each pressure-lubricated gear box to indicate when the oil pressure falls below a safe value;

(b) A low oil quantity warning indicator for each gear box, if lubricant is self-contained;

(c) An oil temperature warning device to indicate unsafe oil temperatures in each gear box;

(d) A tachometer for each propeller;

(e) A torquemeter for each transmission driving a propeller; and

(f) A chip detecting and indicating system for each gear box.

Explanation: See proposal 7.

10. Part 23 is amended by adding a new § 23.917 to read as follows:

§ 23.917 Propulsion drive system and control mechanism tests.

(a) *Endurance tests; general.* The propulsion drive system, as defined in § 23.911, and the propeller(s) control mechanism must be tested as prescribed in paragraphs (b) through (k) of this section for at least 200 hours plus the time required to meet paragraphs (i) and (j) of this section. For the 200-hour portion, these tests must be conducted as follows:

(1) Twenty each, ten-hour test cycles consisting of the test times and procedures in paragraphs (b) through (h) of this section;

(2) The tests must be conducted on the airplane or on a representative portion of the fuselage or nacelle for all or a portion of these tests if determined appropriate;

(3) The test torque must be determined by actual powerplant limitations; and

(4) The test torque must be absorbed by the actual propellers to be installed or an FAA approved alternate.

(b) *Endurance tests; takeoff torque run.* The takeoff torque run endurance test must be conducted as follows:

(1) The takeoff torque run must consist of a one-hour run on the engine(s) at the torque corresponding to takeoff power, but with the engine power setting alternately cycled every five minutes to as low an engine idle speed as practicable. For multiengine installations, differential power is applied such that one engine is at takeoff setting and the other engine(s) is at idle setting.

(2) Deceleration and acceleration of the engines and/or of individual engines and drive systems must be performed at the maximum rate. (This corresponds to a one-second movement of the power lever from idle to takeoff setting and one second from takeoff setting to idle in accordance with § 33.73 of this chapter.)

(3) The time duration of all engines at takeoff power setting must total one hour and does not include the time required to go from takeoff to idle and back to takeoff speed.

(c) *Endurance tests; maximum continuous run.* Three hours of continuous operation at the torque corresponding to maximum continuous power and speed must be conducted as follows:

(1) The propeller(s) must be operated at a minimum of 15 times each hour between test configuration maximum and minimum pitch positions of the propeller(s) except that the change in pitch position movements need not produce loads exceeding the maximum loads encountered in flight.

(2) The minimum and maximum pitch position must be held for at least 10 seconds and the rate of change of pitch position must be at least as rapid as that for normal operation.

(d) *Endurance tests; 90 percent of maximum continuous run.* One hour of continuous operation at the torque corresponding to 90 percent of maximum continuous power must be conducted at maximum continuous rotational propeller speed.

(e) *Endurance tests; 80 percent of maximum continuous run.* One hour of continuous operation at the torque corresponding to 80 percent of maximum continuous power must be conducted at the minimum rotational propeller speed intended for this power.

(f) *Endurance tests; 60 percent of maximum continuous run.* Two hours of continuous operation at the torque corresponding to 60 percent of maximum continuous power must be conducted at the minimum rotational propeller speed intended for this power.

(g) *Endurance tests; engine malfunctioning run.* It must be determined whether malfunctioning of components, such as the engine fuel or ignition systems, or unequal engine power can cause dynamic conditions detrimental to the drive system. If so, a suitable number of hours of operation must be acccomplished under those conditions, 1 hour of which must be included in each cycle and the remaining hours of which must be accomplished at the end of 20 cycles. If no detrimental condition results, an additional hour of operation in compliance with paragraph (b) of this section must be conducted.

(h) *Endurance tests; overspeed run.* One hour of continuous operation must be conducted at the torque corresponding to maximum continuous power and at the maximum rotational propeller speed expected in service, assuming that speed and torque limiting devices, if any, function properly.

(i) *Endurance tests; one-engine-out application.* A total of at least 400 full differential power applications, including those specified in paragraphs (b) and (g) of this section (120 engine power setting cycles in each of paragraphs (b) and (g) of this section totaling 240 cycles) must be made at takeoff torque and RPM. If during these tests it is found that a critical dynamic condition exists, an investigative assessment to determine the cause shall be performed throughout the torque speed range. In each of the remaining 160 engine power setting cycles (160 per engine drive branch) a full differential power application must be performed and the drive shaft of the engine-out must be at rest.

(j) Any components affected directly and/or indirectly by any existing flight loads must be investigated for the same flight conditions as the propeller(s) and their service lives must be determined by fatigue tests or by other acceptable methods. In addition, an acceptable level of safety must be provided for—

(1) Each component in the propeller drive system whose failure would preclude further flight; and

(2) Each component common to all engines of a multiengine airplane.

(k) Each part tested, as prescribed in this section, must be in a serviceable condition at the end of the tests. No intervening disassembly that might affect these results may be conducted.

Explanation: See proposal 7.

11. Part 23 is amended by adding a new § 23.919 to read as follows:

§ 23.919 Additional propulsion drive system tests.

Additional dynamic, endurance, and operational tests and vibratory investigations must be performed to determine that the drive mechanism is safe. The following additional tests and conditions apply:

(a) If the torque output of all engines to the transmission can exceed the highest engine or transmission torque limit, and that output is not directly controlled by the pilot under normal operating conditions (such as where the primary engine power control is accomplished through the propeller(s) control), the following test must be conducted. Under conditions associated with all engines operating, apply 200 cycles to the drive system for 10 seconds each, of a torque that is at least equal to the lesser of—

(1) The maximum torque used in complying with paragraph (b) of § 23.917 plus 10 percent; or

(2) The maximum torque attainable under normal operating conditions, assuming that any torque limiting devices function properly.

(b) For a multiengine propulsion drive system with each engine alternately inoperative, apply to the remaining transmission inputs the maximum transient torque attainable under normal operating conditions, assuming that any torque limiting devices function properly. Each transmission input must be tested at this maximum torque for at least 15 minutes.

(c) The drive system must be subjected to 50 overspeed runs, each 30±3 seconds in duration at a speed of at least 120 percent of maximum continuous speed or other maximum overspeed that is likely to occur in service, plus a margin of speed approved by the Administrator for that overspeed condition. These runs must be conducted as follows:

(1) Overspeed runs must be alternated with stabilizing runs from 1 to 5 minutes duration each 60 to 80 percent of maximum continuous speed.

(2) Acceleration and deceleration must be accomplished in a period no longer than 10 seconds and the time for changing speeds may not be deducted from the specified time for the overspeed runs.

(3) Overspeed runs must be made with the propellers in the flattest pitch for smooth operation.

(d) The test prescribed in paragraphs (a) and (c) of this section must be conducted on the airplane and the torque must be absorbed by the propeller to be installed, except other ground or flight test facilities with other appropriate methods of torque absorption may be used if the conditions of support and vibration are no less severe than the conditions that would exist during a test on the airplane.

(e) Each part tested, as prescribed in this section, must be in serviceable condition at the end of the tests. No intervening disassembly that might affect test results may be conducted.

(f) If drive shaft couplings are used and shaft misalignment or deflections are probable, loads must be measured in flight for the installation limits affecting misalignment. These loads must be combined to show adequate fatigue life.

Explanation: See proposal 7.

12. Part 23 is amended by adding a new § 23.921 to read as follows:

§ 23.921 Propulsion drive system shafting critical speed.

(a) The critical speeds of any shafting must be determined by test except that analytical methods may be used if reliable methods of analysis are available for the particular design.

(b) If any critical speed lies within, or close to, the operating ranges for idling and power-on conditions, the stresses occurring at that speed must be within design limits. This must be shown by tests.

(c) If analytical methods are used and show that no critical speed lies within the permissible operating ranges, the margins between the calculated critical speeds and the limits of the allowable operating ranges must be adequate to allow for possible variations between the computed and actual values.

Explanation: See proposal 7.

13. Section 23.925 is amended by redesignating paragraphs (b) and (c) as (c) and (d), respectively, and by adding a new paragraph (b) to read as follows:

§ 23.925 Propeller clearance.

* * * * *

(b) *Aft-mounted propellers.* The airplane must be designed such that the propeller will not contact the runway surface when the airplane is in the maximum pitch attitude attainable during normal takeoff and landings. If a tail wheel, bumper, or an energy absorption device is provided to show compliance with this paragraph, the following apply:

(1) Suitable design loads must be established for the tail wheel, bumper, or energy absorption device; and

(2) The supporting structure of the tail wheel, bumper, or energy absorption device must be designed to withstand the loads established in paragraph (b)(1) of this section and inspection/replacement criteria must be established for the tail wheel, bumper, or energy absorption device and provided as part of the information required by § 23.1529.

* * * * *

Explanation: Typical small airplanes have been of the tractor propeller configuration. Recently, the FAA has received several applications for pusher propeller configurations. The FAA found for those configurations, which it considered unique relative to the applicable requirements, that special conditions were necessary to provide the level of safety intended by the applicable requirements. This proposal would eliminate the need for further special conditions relative to ground clearance for pusher propeller installations.

Reference: Special conditions mentioned above.

14. Section 23.933 is revised to read as follows:

§ 23.933 Reversing systems.

(a) For propeller reversing systems—

(1) Each system must be designed so that no single failure, likely combination of failures or malfunction of the system will result in unwanted reverse thrust under any operating condition. Failure of structural elements need not be considered if the probability of this type of failure is extremely improbable.

(2) Compliance with paragraph (a)(1) of this section must be shown by failure analysis, or testing, or both, for propeller systems that allow the propeller blades to move from the flight low-pitch position to a position that is substantially less than the normal flight, low-pitch stop position. The analysis may include or be supported by the analysis made to show compliance with § 35.21 for the type certification of the propeller and associated installation components. Credit will be given for pertinent analysis and testing completed by the engine and propeller manufacturers.

(b) For turbojet and turbofan reversing systems—

(1) Each system intended for ground operation only must be designed so that no single failure or malfunction of the system will result in unwanted reverse thrust under any expected operating condition. Failure of structural elements need not be considered if the probability of this type of failure is extremely improbable.

(2) Each system intended for inflight use must be designed so that no unsafe condition will result during normal operation of the system, or from any failure, or likely combination of failures of the reversing system under any operating condition including ground operation. Failure of structural elements need not be considered if the probability of this type of failure is extremely improbable.

(3) Each system must have means to prevent the engine from producing more than idle forward thrust when the reversing system malfunctions; except that it may produce any greater forward thrust that is shown to allow directional control to be maintained, with aerodynamic means alone, under the most critical reversing condition expected in operation.

Explanation: This proposal clarifies the reversing system requirements by separating the propeller reversing systems from the turbojet/turbofan reversing systems, and by amending the requirements for propeller reversing systems to allow incorporating a "beta range" of propeller blade pitch angles.

Conference proposal 320 recommended the addition of the world "propeller" as the first word in paragraph (a) and the addition of the

words "and turbofan" as the second and third words in paragraphs (b) and (c) to clarify the type of reversing system each paragraph is to apply. This would ensure that the rules also apply to turbofan engine fan duct reversers.

Conference discussion indicated that current requirements are unclear. Since the conference, the FAA has reviewed the background of these requirements, along with state-of-the-art reversing systems, including special conditions applicable to reversing systems, and has concluded that clarification of the rule is necessary. This proposal separates the propeller reversing system requirements from the turbojet/turbofan reverser system requirements.

Since all requirements of this section are appropriate for all categories of part 23 airplanes, paragraph (d) applicable to turbopropeller-powered commuter category airplanes is deleted.

Reference: Conference proposal 320.

15. Part 23 is amended by adding a new § 23.934 to read as follows:

§ 23.934 Turbojet and turbofan engine thrust reverser systems tests.

Thrust reverser systems of turbojet or turbofan engines must meet the requirements of § 33.97 of this chapter or it must be demonstrated by tests that engine operation and vibratory levels are not affected.

Explanation: This proposal would incorporate a rule similar to § 25.934 to establish the engine/reverser compatibility testing requirements for thrust reversing systems on turbojet and turbofan engines.

Conference proposal 321 recommended the adoption of the testing requirements of § 33.97 of this chapter because § 23.933 contains installation design requirements for thrust reverser systems but no engine/reverser test compatibility requirements. This proposal would not require any additional testing for those systems type certificated as part of the engine.

At the conference, one commenter opposed requiring a 150-hour block test with a thrust reverser installed on an engine because it is expensive and serves no technical purpose. This commenter agreed that it is important to investigate any asymmetric effects the reverser may have on the engine and to ensure the compatibility of the reverse/engine combination. The commenter opposed any reference to thrust reverse testing requirements.

Another commenter stated that until the conference proposal appeared, it was assumed that § 33.97 was applicable to part 23 airplanes since there is nothing limiting the requirement to part 25 airplanes. This commenter stated that if § 33.97 is not applicable to part 23 airplanes, the FAA should clarify the applicability. Another commenter stated that endurance testing of a thrust reverser on its intended provided valuable answers. Since most fan thrust reversers are asymmetric, the effect on the engine should be investigated. In addition to inlet distortion, there is also an exhaust distortion so it is important to retain the test for the lessons learned from the thrust reverser and from the engine.

The FAA has further studied this issue and does not agree that there is an additional expense to the public imposed by this proposal because these same requirements have been imposed for add-on and retrofit reverser systems for many years. FAA policy is to forego the extra 150-hour test. When a thrust reverser is added or retrofitted, the reverser installation must demonstrate that the engine operation and vibratory levels are not affected. Sufficient test instrumentation is required to provide substantiating data that the operation and vibratory characteristics of the engine are not adversely affected.

The reverser test requirements of § 33.97 have been part of the FAR for twenty years, whereas this proposal is directed primarily at retrofit systems. The FAA has determined that the test requirements proposed are approriate for those engine/reverser combinations not yet tested.

Reference: Conference proposal 321.

16. Section 23.937 is amended by designating the current text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 23.937 Turbopropeller-drag limiting systems.

* * * * *

(b) As used in this section, drag limiting systems include manual or automatic devices that, when actuated after engine power loss, can move the propeller blades toward the feather position to reduce windmilling drag to a safe level.

Explanation. This proposal adds a definition of drag limiting systems, as recommended by conference proposal 322, to clarify their function. The consensus of the conference discussion supported clarification of the requirements.

Reference: Conference proposal 322.

§ 23.943 [Amended]

17. Section 23.943 is amended by removing the words "expected for the acceleration" and replacing them with "of acceleration expected in service".

Explanation: This change would clarify the requirement. Conference proposal 325 recommended adding interpretive material. Conference consensus was that the recommendation is not regulatory in nature and should not be included in the rules.

Conference proposal 326 recommended the insertion of the phrase "in service" to avoid a rule interpretation requiring negative acceleration tests for extended durations on those airplanes not expected to experience long term negative accelerations in service. Conference discussion supported this recommendation. In all cases, it has been FAA practice to ensure, during type certification, that no hazardous malfunction occurs at the negative acceleration levels and for the durations expected in service. Therefore, the FAA concludes that adding the clarifying words "in service" are appropriate.

Reference: Conference proposals 325 and 326.

18. Section 23.951 is amended by revising paragraph (a) to read as follows:

§ 23.951 General.

(a) Each fuel system must be constructed and arranged to ensure fuel flow at a rate and pressure established for proper engine and auxiliary power unit functioning under each likely operating condition, including any maneuver for which certification is requested and during which the engine or auxiliary power unit is permitted to be in operation.

* * * * *

Explanation: This proposal would amend the general fuel system rules to make them applicable to auxiliary power unit fuel systems.

Conference proposal 327, and several other conference proposals to be addressed later, recommend identifying the specific requirements applicable to the installation of auxiliary power units in small airplanes.

Conference discussion concentrated on APUs intended for inflight use, ground use only, and unattended ground use. Conferees discussed the merits of having different levels of requirements based on the various uses. The FAA has further reviewed these issues and concludes the new APU requirements should be stated objectively; thereby allowing the applicant to select the phases of operation for which approval is desired.

Reference: Conference proposal 327.

§ 23.953 [Amended]

19. Section 23.953 is amended by removing the word "drain" and inserting in its place the word "escape", and by adding the phrase "after valve shutoff" at the end of the last sentence of paragraph (b)(1).

Explanation: This proposal clarifies the intent of paragraph (b)(1). The purpose of this rule is to limit fuel loss into the engine compartment due to failure or damage of any fuel system component downstream from the firewall shutoff valve or other valve providing that function. The word "drain" used in other sections of this part denotes a discharge of fluids under controlled conditions, even through that control may be limited to draining overboard. This rule addresses an uncontrolled release of fuel into an area of possible ignition source and the word "escape" more appropriately defines the objective.

Reference: This proposal resulted from recent questions regarding the interpretation of this rule.

20. Section 23.955 is amended by removing the word "carburetor" and inserting in its place the word "engine" in paragraph (a); by inserting the words "or its" before the word "bypass" in paragraph (a)(2); by adding new paragraphs (a)(3), (a)(4) and (f)(3); and by revising paragraphs (c) introductory

text, (c)(1), (c)(3), (d)(2), (e), and (f)(2) to read as follows:

§ 23.955 Fuel flow.

(a) * * *

(3) If there is a flowmeter without a bypass, it must not have any failure mode that would restrict fuel flow below the level required in this fuel flow demonstration; and

(4) The fuel flow must include that flow needed for vapor return flow, jet pump drive flow, and for all other purposes for which fuel is used.

* * * * *

(c) *Pump systems.* The fuel flow rate for each pump system (main and reserve supply) for each reciprocating engine must be 125 percent of the fuel flow required by the engine at the maximum takeoff power approved under this part.

(1) This flow rate is required for each main pump and each emergency pump, and must be available when the pump is operating as it would during takeoff;

* * * * *

(3) The fuel pressure, with main and emergency pumps operating simultaneously, must not exceed the fuel inlet pressure limits of the engine.

(d) * * *

(2) If there is a placard providing operating instructions, a lesser flow rate may be used for transferring fuel from any auxiliary tank into a larger main tank. This lesser flow rate must be adequate to maintain engine cruise power but the flow rate must not overfill the main tank at lower engine powers.

(e) *Multiple fuel tanks.* For reciprocating engines that are supplied fuel from more than one tank, if engine power loss becomes apparent due to fuel depletion from the tank selected, it must be possible after switching to any full tank, in level flight, to obtain 75 percent maximum continuous power on that engine in not more than—

(1) 10 seconds for naturally aspirated single-engine airplanes;

(2) 20 seconds for turbocharged single-engine airplanes, provided that 75 percent maximum continuous naturally aspirated power is regained within 10 seconds; or

(3) 20 seconds for multiengine airplanes.

(f) * * *

(2) For multiengine airplanes, notwithstanding the lower flow rate allowed by paragraph (d) of this section, be automatically uninterrupted with respect to any engine until all the fuel scheduled for use by that engine has been consumed. In addition—

(i) For the purposes of this section, "fuel scheduled for use by that engine" means all fuel in any tank intended for use by a specific engine.

(ii) The fuel system design must clearly indicate the engine for which fuel in any tank is scheduled.

(iii) Compliance with this paragraph must require no pilot action after completion of the engine starting phase of operations.

(3) For single-engine airplanes, compliance with this paragraph must require no pilot action after completion of the engine starting phase of operations unless means are provided that unmistakenly alert the pilot to take any needed action at least five minutes prior to the needed action; such pilot action must not cause any change in engine operation; and such pilot action must not distract pilot attention from essential flight duties during any phase of operations for which the airplane is approved.

Explanation: This proposal clarifies the requirements and incorporates changes relative to single-engine, turbine-powered fuel systems that will allow inflight fuel management, will ensure uniterrupted fuel to the engine until all useable fuel has been consumed, and will provide for cross-flow prevention between interconnected tanks when the airplane is not being operated.

Conference proposal 329 recommends revising paragraph (a) to simplify fuel system testing for airplanes of less than 1500 pounds maximum weight. A conference commenter objected to compromising fuel system validation for any size airplane. The FAA agrees and proposes no further consideration of proposal 329.

Conference proposal 330 recommended revising paragraph (a) by replacing the word "carburetor" with the word "engine" to expand the applicability of this paragraph to all types of powerplant installations as intended under the "general" heading. At the conference, no comments were offered. The FAA concurs with this recommendation and proposes amending paragraph (a) accordingly.

Conference proposal 331 recommended revising paragraph (a)(2) by adding the following, explanatory sentence to the existing rule concerning fuel flow through the flowmeter bypass during the flow test: "If the flowmeter does not have a bypass, it should be modified to simulate a probable malfunction that would restrict fuel flow." The justification was that § 23.1337(c) allows the option of a flowmeter that does not incorporate a bypass, if malfunctions do not severely limit fuel flow. At the conference, no comments were offered. The FAA has further reviewed this issue and has concluded that clarification is necessary. Many flowmeters without a separate bypass are capable of allowing the required fuel flow through the fuel flow sensing element even when the element is blocked. Therefore, the FAA is proposing clarifying wording in paragraph (a)(2).

Conference proposal 332 recommended revising paragraph (b) by replacing the phrase "consumption of the engine" with the phrase "flow required by the engine". The justification given was that fuel injected reciprocating engines may return a substantial amount of fuel to the tanks under normal operating conditions. A system based merely on the fuel "consumed" by the engine would be inadequate to meet the combined consumption and return flow demands. At the conference, no comments were offered. The FAA has considered this issue and concluded that the fuel flow requirements should include all flow passing through the system to the engine compartment. Therefore, the FAA is proposing clarifying wording in paragraph (b).

Conference proposal 333 recommended revising paragraph (c) by removing that portion of the paragraph stating "* * * takeoff fuel flow of the engine at the maximum power approved for takeoff under Part 33 of this chapter or lesser power selected and approved for takeoff under this part" and inserting a new portion stating, "* * * fuel flow required by the engine at the maximum takeoff power selected and approved for takeoff under this part." The justification given was that reciprocating engine maximum fuel flows under installed conditions may be higher than those approved for takeoff under part 33 due to engine cooling requirements. The justification also considered this recommended revision to incorporate the intent of SFAR 23.46(b). At the conference, the proponent of conference proposal 333 was asked to clarify how the proposal would account for the fuel flow that is returned to the tanks and is not consumed by the engine. The proponent stated that the intent of the conference proposal was to address the limitation in the current rule; i.e., the proposal addresses fuel flow in terms of takeoff fuel flow for the engine. The proponent further stated that the purpose was to expand the rule to cover systems that have off-takes for jet pumps and to assure that the fuel pump flow requirement would be 125 percent of the fuel flow needed by the engine installation.

Conference proposal 334 recommended revising paragraph (c) by inserting between the second use of the word "engine" and the word "at", the phrase "plus any fuel returned to the tanks as vapor return flow"; by replacing the phrase "under part 33 of this chapter" with the phrase "during type certification of the engine"; and by adding a new paragraph (3) to read, "The fuel pressure with main and emergency pumps operating simultaneously may not exceed the engine limits for fuel inlet pressure." The justification given was that this rule needs to be expanded to include the vapor return flow in the fuel flow tests for fuel metering devices having return flow systems. The justification further recommended the rule require an investigation to assure maximum fuel pressures are not exceeded when the main and emergency pumps are operated at the same time.

When conference proposal 334 was presented at the conference, one commenter opposed the change to paragraph (c) in preference to conference proposal 333. The commenter considered that the term "fuel flow required" in conference proposal 333 covered all the requirments; e.g., the fuel flow

required into the engine compartment for all the purposes associated with operating the engine.

The FAA has further reviewed the issues raised by conference proposals 333 and 334 and is proposing paragraph (a)(4) to define the term "fuel flow required" in order to clarify the intent of all paragraphs of this section.

Conference proposal 335 recommended revising paragraph (d)(2) by deleting the words "small" and "large" and revising the last part to read, "* * * if there is a suitable placard that provides fuel transfer procedures to prevent fuel starvation and overfilling the main tank(s)." The justification was that there are always questions as to the relative size of the "small" auxiliary tank and the "large" main tank. Also, the placard requirement should consider not opening the valve to the auxiliary inadvertently. At the conference, the only commenter agreed with the proposed change.

Conference proposal 336 recommended revising paragraph (d)(2) to read: "If there is a suitable placard providing appropriate operating instructions, a lesser flow rate may be used for a small auxiliary tank feeding into a large main tank." The justification given was that the currently required placard (operating limitation) would prohibit the pilot from opening the auxiliary tank to main tank ports if the main tank was below a predetermined amount. At the conference, the proponent requested the proposal be modified by deleting the word "small".

The FAA has further reviewed the issues raised by conference proposals 335 and 336 and has concluded that the use of the terms "small" and "large" was originally intended to establish the relative sizes of the affected auxiliary and main tanks where a reduced flow rate is allowed. The FAA is proposing to revise the rule to clarify and simplify it while retaining the relationship of tank sizes and functions.

Conference proposal 337 recommended revising paragraph (e) by replacing the term "engine malfunctioning" with the term "engine power loss". At the conference, one commenter questioned requiring the return to full fuel pressure when full power possibly could be obtained without full fuel pressure. Another commenter asked the definition of "power loss".

Conference proposal 338 recommended revising paragraph (e) to allow more time to regain full power for turbocharged engines, as follows: "10 seconds for naturally aspirated engines; 20 seconds for turbocharged, single-engine airplanes, provided naturally aspirated power is regained in 10 seconds; and * * *." The justification given was that during testing of a turbocharged, single-engine-powered airplane, it was found that an engine power recovery of over 10 seconds was experienced due to the time required for the turbocharger to regain normal speed. Therefore, § 23.955(e) should be revised to account for turbocharger boost recovery lag and to introduce a requirement that full nonsupercharged power be regained in 10 seconds for such engines. At the conference, one commenter stated that the additional 10 seconds requested came from the experience that more time is needed to get the turbocharger up to speed. This is a characteristic of the turbocharged engine.

Another commenter wanted to confirm that 10-second allowances were not cumulative; i.e., 10 seconds allowed for a naturally aspirated engine plus 10 seconds for the turbocharger plus 10 seconds for multiple engines. Further, this commenter stated that the rule should apply when engine power is actually lost, airplane yaw is felt, or the decay of power is heard rather than when a gauge indicates a power loss.

Another commenter recommended that the rule should say 10 seconds for the restoration of normal operation rather than restoration to "full" power. This commenter also stated the real concern is that the engine is smoothly regaining power.

The FAA has reviewed these issues and the applicable rules. Since "full" power depends on a number of variables, the FAA proposes to require ability to regain 75 percent maximum continuous power on the affected engine in 10 to 20 seconds, as appropriate. This value of power is used for many certification requirements in part 23. Although it may appear to relax the requirements, the intended level of safety will be maintained. The intent of this rule is to impose a maximum limit on the time needed to regain power after a power loss due to fuel starvation brought on by inadvertently running the selected tank dry.

This proposed revision of paragraph (e) will also allow additional time for turbocharged engines to regain power and will clarify when the 10-second allowances are cumulative for single-engine, turbocharged engines and when the allowances are not cumulative for multiengine airplanes.

There was no conference proposal to revise paragraph (f)(2); however, since the conference, compliance with the current requirements in turbine-powered, single-engine airplanes has resulted in unacceptable operational characteristics. The current requirement that flow of all fuel scheduled for use by an engine be automatically uninterrupted mandates that on single-engine airplanes all fuel must be available to the engine without any pilot action to manage fuel after engine start. This precludes using the normally installed tank valves to prevent cross-flow of gasoline between sides of the airplane while parked and to balance fuel between wings during flight. The intent of paragraph (f)(2) is to assure that all the usable turbine fuel aboard the airplane will find its way to the engine(s) without further attention from the pilot once the fuel is turned on and the engine(s) is started. This intent must be matched by a reasonable balance between the need to transfer fuel among wing tanks during flight and the need to prevent fuel in partially filled tanks from transferring to one side of the airplane while parked, which could result in subsequent unsafe flight. A new paragraph (f)(3) is proposed to define single-engine and tubine-powered airplane fuel flow requirements.

Reference: Conference proposals 329, 330, 331, 332, 333, 334, 335, 336, 337, and 338.

21. Section 23.957 is amended by designating the current paragraph as "(a)"; and by adding a new paragraph (b) to read as follows:

§ 23.957 Flow between interconnected tanks.

* * * * *

(b) If fuel can be pumped from one tank to another in flight, the fuel tank vents and the fuel transfer system must be designed so that no structural damage to any airplane component can occur because of overfilling of any tank.

Explanation: This proposal incorporates a limitation on fuel transfer to prevent damage to the airplane due to overpressurizing any fuel tank.

Conference proposal 339 addresses this issue. The justification given was that the rules do not include provisions to prevent structural or fuel tank damage that could occur when transferring fuel between tanks. At the conference, no comments were submitted. The FAA is proposing to require that fuel transfer systems that can pump fuel from one tank to another be designed so that they cannot cause damage to tanks or other airplane components.

Reference: Conference proposal 339.

22. Section 23.961 is revised to read as follows:

§ 23.961 Fuel system hot weather operation.

Each fuel system must be free from vapor lock when using fuel heated to its critical temperature, with respect to vapor formation, when operating the airplane in all critical operating and environmental conditions for which approval is requested. For turbine fuel, the initial temperature must be 100 °F, −0°, +5 °F or the maximum outside air temperature for which approval is requested, whichever is more critical.

Explanation: This proposal clarifies the intent of this rule and expands the rule to include fuels of different volatility levels.

Conference proposal 340 recommended replacing the existing § 23.961 rule with the language of § 25.961. The justification given was that the existing rule is totally deficient concerning what is required to show compliance. Also, there is always a question regarding the definition of a fuel system conducive to vapor formation. At the conference, a commenter recommended that these tests be conducted with the highest volatility fuel in the airplane.

Another commenter recommended that if the proposal is going to require "the fuel temperature must be at least 110°F", after the climb to altitude, the fuel temperature will be lower; therefore, the work "initially" should be inserted.

Another commenter requested that the record show what is deficient with the present rule. The present rule does not specify the fuel octane, the vapor pressure, the actual climb conditions, or fuel temperature degradation allowed during climb.

Conference proposal 341 recommended revising § 23.961 by removing the article "a" and replacing it with the words "an initial". The justification given was that this change will provide a realistic condition for initiation of the hot fuel test and reflects the language developed for (nonadopted) § 24.961(a)(5). At the conference, a commenter stated that the fuel should be at an initial temperature of 110°F, and this conference proposal reflects what has been a successful certification practice. Another commenter stated a preference for the previous conference proposal with the provision that the "initial temperature" is inserted into paragraph (a)(5).

Conference proposal 342 recommended revising § 23.961 to read:

"(a) No fuel system shall be conducive to vapor formation. Where fuel lines pass in close proximity to heated areas, adequate shielding or insulation shall be used to prevent unnecessary transfer of heat energy to the fuel while the airplane is in operation.

"(b) Each fuel system shall be capable of sustained vapor-free operation at the maximum altitude for which certification is sought, using fuel with a Reid Vapor Pressure of 15.0 psi, under standard day conditions, with the auxiliary fuel pump (if any) on."

The justification given was that the present regulation is weak in that it does not specify Reid vapor pressure of the fuel, it allows fuel systems to be conducive to vapor formation, and makes no demands that fuel lines be minimally protected from heat. Further, the present requirement for a vapor test using fuel heated to 110°F is poor in that preheated fuel has a lower vapor potential than cold fuel that is fed to a heated engine compartment. Present test requirements are thus ambiguous and even self-defeating.

At the conference, the consensus objected to this conference proposal because the proposed language would be very difficult to administer.

Post conference review of these comments and other technical data led the FAA to develop the present proposal. The current rule has been in use for many years and the intent is understood by the affected aviation community, but only aviation gasoline was used. The main question on current systems concerns the higher volatility (lower initial boiling point) of other fuels such as automobile fuel (autogas) and turbine fuels. Heating autogas to 110°F may change the composition of the fuel considerably. This proposal requires that the fuel be heated to its critical temperature with respect to vapor formation.

The recommendation that the rule be changed to allow an initial temperature of 110°F, and then accepting a temperature degradation during the climb test, was incorporated.

Reference: Conference proposals 340, 341, and 342.

§ 23.963 [Amended]

23. Section 23.963 is amended by removing paragraph (f).

Explanation: This proposal deletes paragraph (f) from § 23.963 since this requirement, which is applicable to only commuter airplanes, is very similar to the requirements in paragraph (e) of § 23.967, which are applicable to all part 23 airplanes. Paragraph (f) was added to part 23 by amendment 23–34 with the other commuter category requirements incorporated into part 23. These commuter category requirements were developed from Special Federal Aviation Regulation (SFAR) No. 23, 41 and appendix A of part 135, which contained interim airworthiness standards for propeller-driven, multiengine airplanes. These interim airworthiness standards were integrated into part 23 without proposed substantive changes to the existing part 23 airworthiness standards.

24. Section 23.965 is amended by revising paragraph (b) to read as follows:

§ 23.965 Fuel tank tests.

* * * * *

(b) Each fuel tank with large, unsupported, or unstiffened flat surfaces, whose failure or deformation could cause fuel leakage, must be able to withstand the following test without leakage, failure, or excessive deformation of the tank walls:

(1) Each complete tank assembly and its support must be vibration tested while mounted to simulate the actual installation.

(2) Except as specified in paragraph (b)(4) of this section, the tank assembly must be vibrated for 25 hours at a total displacement of not less than 1/32 of an inch (unless another displacement is substantiated) while 2/3 filled with water or other suitable test fluid.

(3) The test frequency of vibration must be as follows:

(i) If no frequency of vibration resulting from any rpm within the normal operating range of engine or propeller speeds is critical, the test frequency of vibration in the number of cycles per minute is obtained by multiplying the maximum continuous propeller speed in rpm by 0.9 for propeller-driven airplanes, and for non-propeller driven airplanes, 2,000 cycles per minute.

(ii) If only one frequency of vibration resulting from any rpm within the normal operating range of engine or propeller speeds is critical, that frequency of vibration must be the test frequency.

(iii) If more than one frequency of vibration resulting from any rpm within the normal operating range of engine or propeller speeds is critical, the most critical of these frequencies must be the test frequency.

* * * * *

Explanation: This proposal clarifies that the amplitude of vibration means total displacement and amends the rule to better relate the vibration test frequency to the propulsion means. Further, the paragraph (b) lead-in is clarified.

Conference proposal 342 recommended revising paragraph (b) to clarify the intent of the phrase "large unsupported or unstiffened areas".

At the conference, there was not a clear consensus in the comments of the participants that indicated a problem with the current rule. A commenter observed that all tanks are tested during certification regardless of the lack of clarity relative to what is meant by "large, unsupported, or unstiffened areas." Another commenter observed that "total displacement" was not clear due to the rule specifying "an amplitude."

Conference proposal 344 recommended revising paragraph (b)(3)(i) to better relate the vibration frequency to the propulsion means. The justification given was that the frequency required by paragraph (b)(3)(i) is dependent upon engine speed. This restricts fuel tank certification to a particular engine. Further, the required 90 percent of maximum continuous rpm is unrealistic for turbine engines. At the conference, the intent of the proposal was supported but it was recommended that the proposal be clarified due to differences in turbojet and turboprop means of propulsion. The current rules originated with reciprocating engines and have not been amended to reflect installations of turboprop or turbojet engines in small airplanes. During the discussion, it was suggested that the rule be amended to have separate requirements for propeller-driven and nonpropeller-driven airplanes. The FAA agrees and paragraph (b)(3)(i) is proposed accordingly.

Conference proposal 345 recommended revising paragraph (d) for clarity. The conference discussion did not support the recommended rewording.

The FAA has further reviewed the issues raised in proposal 345 and has concluded that the term "amplitude" for vibration tests needs to be clarified; that the term "flat areas" in paragraph (b) should be changed to "flat surfaces"; and that paragraph (b)(3) should be amended to better relate vibration test frequencies to the airplane's propulsion means. In this regard, the FAA is proposing that the critical test frequency survey include the normal operating range of engine and propeller speeds as appropriate. Where no such critical speed is found for propeller-driven airplanes, the vibration test frequency is proposed to be the maximum continuous propeller speed (rpm) multiplied by 0.9; and for non-propeller-driven airplanes, a fixed test frequency of 2,000 cycles per minute is proposed. This fixed test frequencey for non-propeller-driven airplanes is selected because that frequency has been used successfully for the transport category airplanes certificated to part 25. The use of the propeller speed rather than engine speed for propeller-driven airplanes is proposed because the propeller speeds are considered to be more representative of the airplane vibration environment.

Conference proposal 346 recommended deleting certain paragraphs of § 23.965 for airplanes of not more than 1500 pounds. Conference commenters objected to revising

this rule based on airplane weight. The FAA plans no further action on this proposal.

Reference: Conference proposals 343, 344, 345, and 346.

25. Section 23.967 is amended by revising paragraph (d) to read as follows:

§ 23.967 Fuel tank installation.

* * * * *

(d) Each fuel tank must be isolated from personnel compartments by a fume-proof and fuel-proof enclosure that is vented and drained to the exterior of the airplane. The required enclosure must sustain any personnel compartment pressurization loads without permanent deformation or failure under the conditions of §§ 23.365 and 23.843 of this part. A bladder-type fuel cell, if used, must have a retaining shell at least equivalent to a metal fuel tank in structural integrity.

* * * * *

Explanation: This proposal permits the installation of fuel tanks in the fuselage of airplanes within certain limitations and it deletes the restriction against fuel tanks in the personnel compartments of multiengine airplanes.

Conference proposal 347 recommended revising paragraph (d) essentially as proposed. The justification given was that the current rule prohibits the installation of a fuel tank in the personnel compartment of multiengine airplanes and that there should be no distinction whether the installation is in a single or multiengine airplane. When the fuel tank is installed in pressurized personnel compartments, the pressurization loads must be considered for the enclosure.

The conference consensus supported the change. The FAA concludes that this change would not adversely affect safety and would relieve a regulatory burden on the public.

Reference: Conference proposal 347.

26. Section 23.971 is revised to read as follows:

§ 23.971 Fuel tank sump.

(a) Each fuel tank must have a drainable sump with an effective capacity, in the normal ground and flight attitudes, of 0.25 percent of the tank capacity, or 1/16 gallon, whichever is greater.

(b) Each fuel tank must allow drainage of any hazardous quantity of water from any part of the tank to its sump with the airplane in the normal ground attitude.

(c) Each reciprocating engine fuel system must have a sediment bowl or chamber that is accessible for drainage; has a capacity of 1 ounce for every 20 gallons of fuel tank capacity; and each fuel tank outlet is located so that, in the normal flight attitude, water will drain from all parts of the tank except the sump to the sediment bowl or chamber.

(d) Each sump, sediment bowl, and sediment chamber drain required by paragraphs (a), (b), and (c) of this section must comply with the drain provisions of § 23.999(b)(1) and (b)(2).

Explanation: The proposal would require both fuel tank sumps and sediment bowl/chambers for reciprocating engine fuel systems. The proposal also requires that hazardous quantities of water must be allowed to drain to a sump with the airplane in the normal ground attitude. Service experience has shown that reciprocating engine airplane fuel systems are susceptible to water collecting in the fuel tanks. Existing rules allow either tank sumps or a sediment bowl/chamber arrangement that does not always prevent this water from reaching the engine, especially in tanks with flexible liners. Otherwise, there are no changes proposed for turbine engine fuel systems.

Reference: None.

27. Section 23.973 is amended in paragraph (c) by adding to the end of the second sentence the phrase "provided such openings comply with the requirements of § 23.975(a) of this part"; and by adding new paragraphs (e) and (f) to read as follows:

§ 23.973 Fuel tank filler connection.

* * * * *

(e) For airplanes with engines requiring gasoline as the only permissible fuel, the inside diameter of the fuel filler opening must be no larger than 2.36 inches.

(f) For airplanes with turbine engines, and not equipped with pressure fueling provisions, the inside diameter of the fuel filler opening must be no smaller than 2.95 inches.

Explanation: This proposal clarifies the requirements for vented fuel filler caps and establishes fuel filler opening dimensions as an aid in preventing misfueling; i.e., the refueling of a reciprocating-engine airplane with turbine-engine fuel.

Conference proposal 348 recommended revising § 23.973(c) by adding the phrase essentially as proposed. The justification was that more detailed requirements for vented tank filler caps are needed and that those details are contained in § 23.975(a). At the conference, the only commenter agreed with the proposal.

Conference proposal 349 recommended deleting the requirements of § 23.973(d) for airplanes of less than 1500 pounds. After some discussion at the conference, the sponsor withdrew the proposal; therefore, the FAA plans no further action on this proposal.

Conference proposal 350 recommended revising § 23.973 by adding new paragraphs (e) and (f) essentially as proposed. The justification given was that providing fuel filler opening dimensional restrictions will be useful in preventing turbine fuel from being put into tanks of airplanes with engines that operate only on gasoline. At the conference, the consensus supported the proposal.

The airplane fuel filler kits currently being supplied by the airplane manufacturers are in accordance with proposed paragraph (e) and (f). Considerable effort has gone into establishing these dimensions and obtaining the cooperation of the airplane manufacturers, the fuel suppliers, and the cognizant industry associations. Current production airplanes of the major manufacturers already comply with these proposed dimensions. The FAA believes that specifying these opening sizes will help reduce the number of misfueling occurrences and, therefore, has included them in this proposal.

Reference: Conference proposals 348, 349, and 350.

§ 23.975 [Amended]

28. Section 23.975 is amended in paragraph (a) introductory text by removing the phrase "of the expansion space" and inserting in its place the phrase "of the fuel tank"; and in paragraph (a)(5) by replacing the semicolon with a period and adding a new sentence "Any drain valves installed in the vent lines must meet the applicable requirements of § 23.999 "; at the end of the paragraph.

Explanation: This proposal clarifies the rules on fuel tank vent line termination points and specifies the requirements applicable to vent line drains.

Conference proposal 351 recommended revising paragraph (a) essentially as presented in this proposal. The justification given was that § 23.969, Fuel tank expansion space, does not always require an expansion space. Current paragraph (a) states that the fuel tank must be vented from the top of the expansion space. At the conference, a commenter supported the proposal.

Conference proposal 352 recommended a revision to § 23.975(b), which essentially was incorporated by amendment 23–29. The FAA plans no further action on this proposal.

Conference proposal 353 recommended revising paragraph (a)(5) by adding a vent drain valve provision essentially as proposed. The justification was that § 23.975(a)(5) states "* * * there may be no undrainable points in any vent line * * *" and is not clear as to its intent; it could mean the vent line must slope downward all the way from the top of the tank to the vent outlet. During the conference, one commenter objected to the part of the proposal that adds the drain valve requirements of § 23.999 to vent line drains because parts of § 23.999 are inappropriate. The commenter further contended that vent drains did not need to "discharge clear of all parts of the airplane," just to get a little water out, and that because there are distinct differences between fuel system drains and vent line drains, that should be considered in administering the rules. Another commenter stated that if there is a problem with the wording "applicable requirements of § 23.999", it should be clarified. The proposal is intended to prevent drains from discharging inside the airplane.

The FAA has further considered these issues and has concluded that fuel tank vent drains operate in much the same environment as fuel tank drains in that vent lines

frequently contain fuel in addition to the water that may condense in them. The vent drains permit the drainage of whatever fluids that have collected at any low points. The fuel tank drains permit the drainage of whatever fluids that have collected at their locations. The FAA, therefore, finds no reason to allow a lower quality drain system for vent line drains than for fuel tank drains.

Conference proposal 354 recommended adding some interpretive material to § 23.975(a)(6). After a short discussion at the conference, the sponsor withdrew the proposal.

Conference proposal 355 recommended a revision to § 23.975(b), which essentially was incorporated by amendment 23–29. After a short discussion, the sponsor withdrew the proposal.

Reference: Conference proposals 351, 352, 353, 354, and 355.

§ 23.977 [Amended]

29. Section 23.977 is amended in paragraph (d) by removing the word "finger".

Explanation: This proposal would require all strainers, not only "finger" strainers, to be accessible for inspection and cleaning.

Conference proposal 356 recommended the removal of the word "finger" from § 23.997(d). The rule currently specifies only fuel tank finger strainers are to be accessible for inspection and cleaning; however, all fuel strainers are subject to contamination and should be accessible for inspection and cleaning. At the conference, only one comment was offered, which agreed with the proposal.

Reference: Conference proposal 356.

§ 23.991 [Amended]

30. Section 23.991 is amended in paragraph (c) by removing the word "normal" and inserting in its place the word "main".

Explanation: This proposal would standardize fuel pump terminology, as defined in § 23.991(a).

Conference proposal 357 recommended adding interpretive material to § 23.991(a)(1), after a short discussion at the conference, the sponsor withdrew the proposal.

Conference proposals 358 and 359 recommended rearranging § 23.991(a) to match § 25.991(a). After a short discussion at the conference, the proposal was withdrawn as inappropriate to Part 23 airplanes.

Reference: Conference proposals 357, 358, and 359.

§ 23.993 [Amended]

31. Section 23.993 is amended in paragraph (d) by removing the words "must be approved or".

Explanation: This proposal deletes inappropriate terminology; all components that are acceptable for installation on a certificated airplane must be approved. In this case, the fuel hoses could be "approved" through the Technical Standard Order system but still not be suitable to the environment of a particular installation; therefore, the subject phase should be deleted.

Reference: None.

§ 23.995 [Amended]

32. Section 23.995 is amended in paragraph (f) by removing the word "check".

Explanation: This proposal would require all valves, not only check valves, to incorporate provisions to preclude incorrect assembly or connection and a resultant unsafe condition.

Conference proposal 363 recommended deleting the word "check" from § 23.995(f). The justification given was that incorrect assembly and connection of fuel selector valves and other fuel valves result in unsafe conditions. The current rule applies only to check valves. One commenter at the conference disagreed with the proposal stating that the current rule addressing check valves is appropriate but is not necessary for all valves. The commenter further stated that a large quantity of fuel valves that have been in production for 25 years do not have such a provision and have not caused any problem because if it is installed improperly, the engine cannot start and an engine that won't start cannot injure anyone.

The FAA further considered these issues and concluded that improper assembly or connection of fuel valves would not necessarily preclude an engine from starting. Improper assembly or connection could cause engine stoppage in flight. Therefore, the FAA concludes that all fuel valves should comply with the proposed requirements of paragraph (f).

Conference proposal 360 recommended relaxing the requirement of § 23.995(d) for airplanes of not more than 1500 pounds to allow gravity or vibration to cause fuel valves to move toward the open position. The consensus of conference commenters was opposed to the proposal. The FAA agrees with the commenters and plans no further action on this proposal.

Conference proposal 361 recommended adding interpretive material to § 23.995 (e) and (f) for airplanes of not more than 1500 pounds. Prior to any discussion, the sponsor withdrew this proposal as inappropriate material.

Conference proposal 362 recommended revising § 23.995 to prevent the inadvertent movement of fuel control valves to the "off" position. The proposal was withdrawn without discussion after the FAA pointed out that the requirement had been incorporated in amendment 23–29.

Reference: Conference proposal 360, 361, 362, and 363.

§ 23.997 [Amended]

33. Section 23.997 is amended in paragraph (d) by removing the phrase "in part 33 of this chapter" and inserting in its place the phrase "during its type certification".

Explanation: This proposal clarifies the intent of the rule.

Conference proposals 364 and 365 recommended revising § 23.997(d) essentially as proposed. The justification given was that engines are also certificated under CAR part 13. The current rule references only part 33 of the FAR. When presented for comment at the conference, the only commenter supported the proposal. Engines certificated to the provisions of CAR part 13 continue to be manufactured and may be incorporated into new airplane designs. Therefore, the FAA concludes this change to be clarifying and necessary.

Reference: Conference proposal 364 and 365.

34. Section 23.999 is amended by removing paragraph (b)(3) in its entirety and by revising paragraph (b)(2) to read as follows:

§ 23.999 Fuel system drains.

* * * * *

(b) * * *

(2) Have a drain valve—

(i) That has manual or automatic means for positive locking in the closed position;

(ii) That is readily accessible;

(iii) That can be easily opened and closed;

(iv) That allows the fuel to be caught for examination;

(v) That can be observed for proper closing; and

(vi) That is either located or protected to prevent fuel spillage in the event of a landing with landing gear retracted.

Explanation: This proposal clarifies that fuel system's drains must have drain valves and adds the requirements that the valve operator must be able to catch the fuel and must be able to observe the valve for proper closing without excessive effort.

Conference proposal 366 recommended revising § 23.999(b)(2) essentially as proposed. The justification given was that many airplane manufacturers have installed remotely operated fuel drains; however, these installations do not permit ready examination of the drained fuel, or a determination that the valve was closed after draining.

In the past few years, the trend has been to install the fuel drain operating provisions in the cockpit. When that is done, it is difficult for the pilot to observe that the drain has indeed drained properly, that it has stopped when the pilot places the control in the closed position, and that no fuel continues to drip from the drain valve. To ensure there is positive closure of the drain valve, the pilot must get out of the airplane to make that observation. Fuel that falls freely to the ground without being caught cannot be adequately examined by the pilot for water or other contaminants. Therefore, a requirement has been added to ensure the pilot can catch the draining fuel to examine it for impurities.

Reference: Conference proposal 366.

§ 23.1001 [Amended]

35. Section 23.1001 is amended in paragraph (f) by removing the word "personnel" and inserting in its place the word "crewmembers".

Explanation: This proposal will standardize the terminology used. In all other instances in part 23 (11 places) the term "crewmembers" is used.

Reference: A question has been raised if "flight personnel" and "flight crewmembers" mean the same. The FAA stated that the terms mean the same people are involved.

36. Section 23.1011 is amended by redesignating paragraphs (a), (b), (c), and (d) as (b), (c), (d), and (e), respectively; and by adding a new paragraph (a) to read as follows:

§ 23.1011 General.

(a) For oil systems and components that have been approved under the engine airworthiness requirements and where those requirements are equal to or more severe than the corresponding requirements of subpart E of this part, that approval need not be duplicated. Where the requirements of subpart E are more severe, substantiation must be shown to the requirements of subpart E.

* * * * *

Explanation: This proposal adds a new paragraph to allow oil systems and components properly approved during engine type certification to be accepted without further substantiation when the standards previously met were equal or more severe than those in this subpart. This proposal is needed to clarify that those oil systems approved through other means, to equal or more severe requirements, need not be reapproved under the oil system requirements of this part. This proposal evolved from the conference discussion of three different proposals and post conference investigations.

Conference proposal 367 recommended adding a new phrase, "if an oil system is needed" at the beginning of current paragraph (a). The justification was that this addition would allow the installation of two-stroke-cycle reciprocating engines for which an airframe-installed oil system is not necessary. The FAA has further reviewed the cited paragraph (redesignated as paragraph (b)) and has concluded that this rule includes two-stroke-cycle engine oil systems and any other configuration of engine oil systems. The oil may be injected into the engine or mixed with the fuel. These systems have been approved as meeting these requirements so a two-cycle engine would not be excluded based on the current § 23.1011.

Conference proposal 368 recommended adding the wording "which is not part of a type certificated engine" after the opening words "each oil tank" of § 23.1013(a) Installation. The justification given was that this addition would clarify that the rule only applied to engine oil tanks installed by the airframe manufacturer. During the discussion at the conference, one proponent stated that this recommendation is intended to permit the airframe manufacturer and the FAA to accept the engine type certification in those cases where the oil tank was indeed included as part of the engine. Proposed paragraph (a) will allow the relief recommended when the affected engine's type certification basis contains requirements equal to or more severe than the requirements of this part applicable to engine oil systems.

Conference proposal 370 recommended inserting the phrase "not approved as part of the engine" after the opening words "each oil tank" of § 23.1015, Oil Tank Tests. The justification given was that part 33 now includes requirements for certification of oil tanks included with the engine and a tank so approved should not require redundant certification in part 23. Conference commenters' main concerns were that the rule be revised to ensure that oil systems are properly substantiated but not require a duplicate substantiation.

The proposed paragraph (a) is formulated to avoid requiring redundant showing of compliance to equivalent criteria, to ensure adequate requirements related to the installation environment, and to ensure that certificated engines are adequately substantiated when installed in part 23 airplanes.

Reference: Conference proposals 367, 368, and 370.

§ 23.1013 [Amended]

37. Section 23.1013 is amended in paragraph (g) by removing the words "a turbine" and inserting in their place the word "an".

Explanation: Conference proposal 369 recommended removing the words "a turbine" from the oil tank filler cap oiltight seal requirement and inserting the word "an" because the current rule requires the oil filler cap to have an oiltight seal only on turbine engines. The conference consensus was that the rule should apply to all types of engines. The FAA concludes the requirement should apply to all airplanes certificated to part 23.

Reference: Conference proposal 369.

38. Section 23.1017 is amended by adding a new paragraph (b)(6) to read as follows:

§ 23.1017 Oil lines and fittings.

* * * * *

(b) * * *

(6) For reciprocating-engine airplanes, breather line blockage due to ice or foreign matter is prevented or pressure relief is provided in the event of such blockage. This pressure relief, if used, must be in a sheltered location to avoid malfunction caused by ice or foreign material.

Explanation: Conference proposal 371 recommended adding a requirement for means of pressure relief in case of breather line blockage. The justification given was that experience has shown that water vapor can progressively accumulate, freeze, and obstruct breather lines in service conditions. Conference commenters objected to a new requirement that looks like an alternative to paragraph (b)(5), especially for turbine engines. Even though the airplane originally complied with paragraph (b)(5), as the engine wears, increased piston blowby sends more and more oil and water vapor through the breather and makes it more likely that the breather will be blocked by ice. Though blockage is not ordinarily a problem, it does occur at the least expected time with the subsequent failure of oil seals and the loss of engine oil.

The FAA has further studied these issues and has concluded that the proposal should be limited to reciprocating engine airplanes.

Reference: Conference proposal 371.

§ 23.1019 [Amended]

39. Section 23.1019 is amended in paragraph (a)(2) by removing the words "under part 33 of this chapter" and inserting in their place the words "for its type certification"; in paragraph (a)(3) by removing the words "an indicator that will" and inserting in their place the words "a means to"; and in paragraph (a)(5) by removing "§ 23.1305(u)" and inserting in its place "§ 23.1305(c)(9)".

Explanation: This proposal revises incorrect references and clarifies paragraph (a)(3).

Conference proposal 372 recommended revising paragraph (a)(2) by replacing the last two prepositional phrases "under part 33 of this chapter" with the phrase "during its type certification". Justification given was that engines are also certificated under CAR part 13. There was no objection to the revision at the conference.

Conference proposal 373 recommended revising paragraph (a)(3) by replacing the words "an indicator" with "a mechanical device on its container". The justification given was clarification as to whether the contamination indicator must be on the filter or on the instrument panel. At the conference, four commenters objected to this wording as being too design restrictive. It was suggested that the rule should be revised to allow any means that gives adequate warning whether the indicator is on the body of the filter, on a remotely located maintenance panel, or on the flight deck instrument panel.

After further review, the FAA has concluded that paragraph (a)(3) should be revised to allow the suggested design flexibility and is proposing to revise paragraph (a)(3) accordingly.

Conference proposal 374 recommended revising paragraph (b) to require all reciprocating-engine powerplant installations to have provisions for installing a spin-on type oil filter capable of removing particulates in the 30-micron range. No justification was given for the recommendation. At the conference, a commenter objected to the recommendation as being too specific and restrictive. The FAA agrees that the current rule covers the provisions intended and allows a spin-on filter of the proper design as long as it meets the mesh and strainer requirements of the engine. The FAA plans no further action on this recommendation.

Paragraph (a)(5) has been revised to reference the proper paragraph in § 23.1305 of this notice.

Reference: Conference proposals 372, 373, and 374.

40. Section 23.1021 is amended by revising paragraphs (a) and (b) and adding a new paragraph (c) to read as follows:

§ 23.1021 Oil system drains.

* * * * *

(a) Be accessible;

(b) Have drain valves, or other closures, employing manual or automatic shut-off means for positive locking in the closed position; and

(c) Be located or protected to prevent inadvertent operation.

Explanation: This proposal clarifies the intent and adds a requirement for protection against inadvertent operation. Conference proposal 375 recommended clarifying paragraph (b) by adding "drain valves or other closures". The conference proposal also recommended adding the new requirement to locate or protect oil drains to prevent inadvertent operation. The justification given was that service experience shows that valves with automatic means for locking closed have been unintentionally opened by interference from a retracting landing gear. Also, drain hoses have opened valves when the hose is not properly installed or moves out of proper position.

At the conference, two commenters agreed with adding paragraph (c) but would not support the addition to paragraph (b) because they did not believe it was necessary and were not sure what the implications would be if it were adopted.

The FAA has further reviewed this issue and has concluded that this revision will clarify the requirement.

Reference: Conference proposal 375.

41. Part 23 is amended by adding a new § 23.1024 to read as follows:

§ 23.1024 Oil-air separators.

For reciprocating-engine installations only, each oil-air separator, if installed, must provide means for separating and disposing of any water entrained in the oil.

Explanation: This proposal would add a new requirement defining the function of the oil-air separator.

Conference proposal 376 recommended requiring a means for separating and disposing of any water entrained in the oil vapor in the engine oil system. The justification given was based on service experience that demonstrated oil recovered from oil vapor may contain water. This water can then be introduced into the engine oil system. Discussion at the conference revealed that the proposal was intended for only reciprocating-engine installations.

Reference: Conference proposal 376.

42. Section 23.1027 is amended in paragraphs (b) and (c) by removing the word "trapped" and inserting in its place the word "reserved", and by revising paragraph (a) to read as follows:

§ 23.1027 Propeller feathering system.

(a) If the propeller feathering system uses engine oil and that oil supply can become depleted due to failure of any part of the oil system, a means must be incorporated to reserve enough oil to operate the feathering system.

* * * * *

Explanation: This proposal will allow that amount of engine oil dedicated to the propeller feathering system to be stored in a reservoir other than the oil tank and replaces the word "trapped" with the word "reserved". By definition, the word "reserve" is more appropriate than the word "trap" in this application.

Conference proposal 377 recommended changing the word "tank" to the words "storage container" because engine oil dedicated to the propeller feathering system may be stored in containers other than the oil tank.

At the conference, three commenters objected to the term "storage container" because it makes the rule sound like the pan-type tank crankcase is no longer acceptable and that other rules on container location and possible fire resistance requirements were being brought into question.

One commenter agreed the rule should allow storage means other than the oil tank, and it should simply state the objective that the feathering system has available an adequate supply of oil.

The FAA has further reviewed this issue and has concluded that the proposal is appropriate to those feathering systems that require engine oil to accomplish feathering. Many designs require engine oil for propeller pitch control while feathering is accomplished through springs and/or weights after oil pressure is released or the oil is lost from the system. In such designs, where oil is required for the unfeathering operation, but where engine stoppage involves loss of oil with the propeller automatically moving into feather, unfeathering the propeller is probably not a viable option.

Reference: Conference proposal 377.

43. Section 23.1041 is revised to read as follows:

§ 23.1041 General.

The powerplant and auxiliary power unit cooling provisions must maintain the temperatures of powerplant components and engine fluids, and auxiliary power unit components and fluids within the limits established for those components and fluids under ground and water operating conditions, and flight operation to the maximum altitude for which approval is requested, and after normal engine and auxiliary power unit shutdown.

Explanation: This proposal incorporates cooling provisions for auxiliary power units (APU) and for temperature control of components and fluids on both the propulsion powerplant and the auxiliary power unit after normal shutdown. APUs have been approved in small airplanes and more installations are anticipated in the future. Cooling provisions for both engines and APUs should ensure that the components and fluids do not overheat after the flow of forced cooling air ceases.

Conference proposal 378 recommended revising § 23.1041 by replacing it with the wording of § 25.1041. The justification for this change was that applicants for approval of APU installations should be informed of the applicable requirements.

At the conference, four commenters agreed that adding the APU cooling requirements into the rule was acceptable, but they objected to the new requirement for temperature control (cooling) after normal engine or APU shutdown. The commenters stated that this is the first time the rule would cover "soak-back" after shutdown and there may be a burden to the applicant involved; although soak-back is usually considered during the normal cooling evaluation, the addition of the requirements into the rule may bring up other areas of consideration not well defined.

The FAA has further considered these issues and does not agree that the after-shutdown cooling requirement is new, but is actually a clarification of existing requirements. It is evident that excessive temperatures cannot be allowed to exist in the powerplant or APU installation at any time, including after the engine or APU shutdown when the forced flow of cooling air is usually discontinued. Any damage to the powerplant or APU during soak-back would not be readily detectable by routine inspection before further flight and could cause an unsafe condition.

Conference proposal 379 recommended revising § 23.1041 by replacing the phrase "within the temperature limited established" with the phrase "within the green or normal operating ranges established by the engine manufacturer" and recommended adding to the end of the section, "assuming standard day conditions". No justification was given for the proposed changes to the conference proposal.

At the conference, two commenters objected to the proposed change of proposal 379 because (1) the current rule is stated more objectively than the recommendation; (2) not all temperature limits are established by engine manufacturers; they may be established by the manufacturers of other equipment located in the engine or APU compartment; (3) the "green range" is not the only normal range for temperature; yellow or red arcs or shapes may indicate normal, time-limited temperature ranges; and (4) the revision to standard day conditions is inappropriate since the installation must be tested or corrected to 100 °F hot day criteria. The FAA agrees and is considering no further action on conference proposal 379.

The FAA reviewed the special conditions programs concerning the installation of APUs in Part 23 airplanes and concluded that it is appropriate to propose APU requirements for part 23 at this time.

Reference: Conference proposals 378 and 379.

§ 23.1047 [Amended]

44. Section 23.1047 is amended in paragraph (b)(2) by removing the phrase

"in § 23.1337(e)" and inserting in its place the phrase "in § 23.1305(b)(3)".

Explanation: Conference proposal 380 recommended revising the current incorrect reference. At the conference the consensus agreed with the recommendation.

Reference: Conference proposal 380.

45. Section 23.1061 is amended by redesignating paragraph (a)(3) as (a)(4); in newly redesignated paragraph (a)(4) by removing the words "expansion tank" and inserting in their place the words "coolant tank expansion space"; by removing the concluding text of paragraph (a); by revising paragraph (a)(2); and by adding a new paragraph (a)(3) to read as follows:

§ 23.1061 Installation

(a) * * *

(2) There are pads or other isolation means between the tank and its supports to prevent chafing.

(3) Pads or any other isolation means that is used must be nonabsorbent or must be treated to prevent absorption of flammable fluids; and

* * * * *

Explanation: This proposal allows means other than pads to prevent chafing between coolant tanks and their supports and clarifies the reference to the coolant tank expansion space. This change will encourage the use of improved vibration isolation provisions that have been developed.

Conference proposal 381 recommended the addition of the phrase "or other isolation means" after the word "pads" in paragraph (a)(2). The justification given was that consideration should be given to the use of improved isolation provisions that have been developed to reduce vibration, accommodate relative displacement of components and prevent chafing.

At the conference, there was no objection to the recommended addition. However, it was further recommended that the unnumbered sentence at the end of paragraph (a) restricting the padding absorption qualities, be made a part of paragraph (a)(2) so that all rule references to coolant tank padding are together. The FAA has further considered these issues and has found that the padding absorption qualities should be a separate paragraph that follows paragraph (a)(2). Also, in the current paragraph (a)(3), the term "expansion tank" may be interpreted as another tank separate from the coolant tank when in actual practice the expansion space in the coolant tank is accepted as the expansion tank. Therefore, the term "expansion tank" has been replaced by the term "coolant tank expansion space".

Reference: Conference proposal 381.

46. Section 23.1091 is amended by revising the section heading in paragraph (a) by inserting the phrase "and auxiliary power unit and their accessories" after the word "engine" in two places; in paragraph (c)(1) by inserting the phrase "or auxiliary power unit and their accessories" after the word "engine"; by adding two new paragraphs (b)(4) and (b)(5); and by revising paragraph (c)(2) to read as follows:

§ 23.1091 Air induction system.

* * * * *

(b) * * *

(4) Each automatic alternate air door must have an override means accessible to the flight crew.

(5) Each alternate air door must have a position indicator in the cockpit to show the flight crew the position of the alternate air door.

(c) * * *

(2) The airplane must be designed to prevent water, slush or other foreign material on the runway, taxiway, or other airport operating surface from being directed into the engine or auxiliary power unit air inlet ducts in hazardous quantities during takeoff, landing, and taxiing.

Explanation: This proposal incorporates air induction system requirements for auxiliary power units, a flight crew accessible override means for automatic alternate air door systems, a cockpit located position indicator for each alternate air door, and a clarification of the water ingestion and foreign material ingestion requirements. The FAA has determined that these changes are needed to update the rules with current design practices.

Conference proposal 382 recommended revising the air induction system requirements to include the inlet for the auxiliary power unit (APU). The justification given was that a number of applications for approval of APUs have been processed by the FAA and with more expected in the future, it is appropriate to establish suitable requirements in the FAR. At the conference, the consensus agreed with the recommendation.

Conference proposal 383 recommended § 23.1091(a) be amended to prevent intake air being taken from a hot part of the engine compartment, or from any cooling air that has passed over the engine or turbocharger. It also recommended that the pressure drop across the induction air filter in normal cruise flight not exceed one inch of mercury for normally aspirated airplanes. The justification was that some airframe installations seriously compromise the horsepower output and/or detonation limits of the engine as originally certified, due to peculiarities of the induction system that may have a marked deleterious effect on the volumetric efficiency and/or heat burden. At the conference, the consensus was that the recommendations addressed poor design practices, not flight safety issues. The FAA agrees and plans no further action on this recommendation.

Conference proposal 385 recommended that a new paragraph (b)(4) be added that stated: "Each alternate air door must have a manual override accessible to the flight crew and a position indicator to show the flight crew the position of the alternate air door." The justification was that certain airplanes have been certificated with alternate air doors that open automatically. Service history has shown that these doors can stick or freeze closed making alternate air unavailable. Also, the door can stop midway between outside and heated air so that the required heat rise is diluted and unfiltered air enters the engine. At the conference, the commenters basically supported the need for a rule in this area, but requested clarification and generalization of the rule so that the word "manual" would not necessarily mean "mechanical". The FAA has further considered these issues and is proposing paragraphs (b)(4) and (b)(5). The words "manual override" have been replaced by the words "override means", thus, allowing design latitude. The word "automatic" was inserted to clarify that the rule applies only to automatic alternate air doors. Proposed new paragraph (b)(5) separates the position indicator requirement from the override requirement to clarify that these are indeed separate requirements. In this case, a position indicator can be a light, a dial indicator or, for mechanically actuated doors, the position of the actuator knob or handle in the cockpit.

Conference proposal 386 recommended adding into paragraph (c)(2) the requirement that the airplane must be designed to prevent water or slush on the runway, taxiway, or other airport operating surfaces from being directed into the engine or auxiliary power unit air inlet ducts in hazardous quantities. The justification given was that there has been a controversy regarding classifying water and slush on airport surfaces as foreign matter that may be hazardous if taken into the air induction system. At the conference, two commenters suggested that the language of the rule be minimized as much as possible. The FAA has further reviewed these issues and has simplified the proposal.

Conference proposal 384 recommended revising § 23.1091(b) to delete the requirement for two separate air intakes for airplanes of not more than 1500 pounds maximum weight. The proposal was withdrawn without discussion. The FAA plans no further action on this proposal.

Reference: Conference proposals 382, 383, 384, 385, and 386.

47. Section 23.1093 is amended in paragraphs (a)(3) and (c) by removing the word "carburetors" and inserting in its place the words "fuel metering device"; by revising paragraphs (a)(4), (a)(5), and (b)(1); and by adding new paragraph (a)(6) to read as follows:

§ 23.1093 Induction system icing protection.

(a) * * *

(4) Each airplane with sea level engine(s) using a fuel metering device tending to prevent icing has a sheltered alternate source of air with a preheat of not less than 60 °F with the engines at 75 percent of maximum continuous power;

(5) Each airplane with sea level or altitude engine(s) using fuel injection systems having metering components on

which impact ice may accumulate has a preheater capable of providing a heat rise of 75 °F when the engine is operating at 75 percent of its maximum continuous power; and

(6) Each airplane with sea level or altitude engine(s) using fuel injection systems not having fuel metering components projecting into the airstream on which ice may form, and introducing fuel into the air induction system downstream of any components or other obstruction on which ice produced by fuel evaporation may form, has a sheltered alternate source of air with a preheat of not less than 60 °F with the engines at 75 percent of maximum continuous power.

(b) Turbine engines.

(1) Each turbine engine and its air inlet system must operate throughout the flight power range of the engine (including idling), without the accumulation of ice on engine or inlet system components that would adversely affect engine operation or cause a serious loss of power or thrust—

(i) Under the icing conditions specified in appendix C of part 25 of this chapter; and

(ii) In snow, both falling and blowing, within the limitations established for the airplane for such operation.

* * * * *

Explanation: This proposal adds specific ice protection requirements for fuel injection system designs with and without metering components on which impact ice may accumulate and clarifies the section by replacing the term "carburetors" with the term "fuel metering device" where appropriate. In addition, the proposal eliminates the differences in requirements that are based solely on the number of engines on the airplane or on the method of cooling; i.e., air cooled or liquid-cooled.

Conference proposal 387 recommended replacing the term "carburetor" with the term "fuel metering device" in those places where the device may be other than a conventional venturi carburetor. The reason for the recommendation was that the term "carburetor tending to prevent icing" has been a great source of confusion and has caused difficulty in applying the rules. "Fuel metering device" would be a better term to use than carburetor because fuel injection systems, as well as conventional carburetors, are involved. At the conference, one commenter questioned why there is a difference in heat rise requirements based on the number of engines on the airplane as in the current paragraphs (a)(4), single engine, and (a)(5), multiengine. Almost 30 years ago, a multiengine airplane with no alternate air provision had an accident. A rule change resulted, but only for multiengine airplanes. This anomaly has persisted since.

The FAA has further considered these issues and has concluded that the requirements need to be clarified and aligned with past equivalent safety findings. The current requirement for a heat rise equal to the heat rise in the cooling air downstream of the cylinders was changed to 60 °F at 75 percent maximum continuous power. This heat rise proposal is based on previously approved equivalency to the heat rise downstream of air-cooled cylinders.

Conference proposal 388 recommended the addition of two new paragraphs defining the heat rise requirements for fuel injection system designs based upon whether the systems incorporated components in the induction air stream that could accumulate ice. The justification for the recommendation was that the regulation does not now include specific requirements for various types of fuel injection systems. The proposed additions have been used by the FAA as guidelines for these systems, as covered in an FAA policy letter dated May 21, 1970. At the conference, a commenter suggested that this recommendation be combined with the previous recommendation into an overall section revision.

Based on post conference review of the rule and the policy involved in years of its administration, the FAA concluded that the prime objective has been consistently pursued. The objective of the section is stated explicitly in the first sentence: "Each reciprocating engine air induction system must have means to prevent and eliminate icing." The remainder of paragraph (a) specifies temperature rise requirements to accomplish this objective for certain induction system designs. Experience has shown that for the designs addressed, the heat rise required is adequate to provide the necessary icing protection. However, since there can be an infinite number of induction system designs, the proposed rule sets forth the objective to preclude icing.

Even after the heat rise required for a particular design has been demonstrated, it must be shown that the prime objective of the first sentence is met. When an applicant submits an air induction system design for icing protection evaluation, it is incumbent upon the applicant to demonstrate that not only the appropriate heat rise is met but also that the air induction system prevents icing. In the event icing does occur, the system must have the ability to eliminate icing without hazard to the airplane.

Conference proposal 389 recommended deleting the paragraph (b)(1)(ii) reference to snow, both falling and blowing because insufficient definition of this requirement exists to allow the application of specific analytical or test verification procedures. Experience has shown that normal compliance with the icing certification requirement covers this item. At the conference, one commenter stated that the way the rule is phrased there is no yardstick to reasonably determine compliance; further, this commenter would like to see the requirement deleted.

The FAA has further reviewed this issue and has concluded that the requirement is needed. This requirement is identified in parts 23, 25, 27, and 29, and has been administered adequately for all categories of aircraft.

As a result of an FAA review of the background and policy on § 23.1093(b), it was discovered that the phrase "within the limitations established for the airplane" was mistakenly placed in the middle of paragraph (b)(1). It should be at the end of (b)(1)(ii). The proposal has been revised to align part 23 with part 25, as proposed in Notice 84–21 (49 FR 47358, December 3, 1984).

Reference: Conference proposals 387, 388 and 389.

48. Section 23.1101 is amended by revising the section heading, the introductory text of the section, and paragraph (a) to read as follows:

§ 23.1101 Induction air preheater design.

Each exhaust-heated, induction air preheater must be designed and constructed to—

(a) Ensure ventilation of the preheater when the induction air preheater is not being used during engine operation;

* * * * *

Explanation: This proposal clarifies the cooling requirement for the induction air preheater during those times the preheater is not otherwise being ventilated and cooled through the use of the induction air preheat system and correctly identifies the preheater as an "induction" air preheater rather than only a "carburetor" air preheater.

Conference proposal 390 recommended revising the current wording "when the engine is operated in cold air" to the phrasing "when the engine is in operation." The justification given was that the ventilation requirements of this paragraph should ensure continuous ventilation any time the engine is operating.

Conference proposal 391 recommended revising the current wording to the phrasing "when the carburetor heat control is in the off position." The justification given was that § 23.1101(a) is not very comprehensive and as written, "cold air" could mean cold ambient air and not cold induction air, as intended.

At the conference, the discussion focused on ensuring that the induction air preheat device taking heat from the exhaust will be ventilated and cooled whenever the engine is operating.

When induction air preheat is in use, the preheat device is ventilated and cooled by the induction air flow. The intent is to ensure that the preheat device is ventilated and cooled at all other times the engine is operating. The FAA has further considered these issues and agrees that the requirements need clarification.

Reference: Conference proposals 390 and 391.

49. Section 23.1103 is amended by adding new paragraphs (c), (d), (e), and (f) to read as follows:

§ 23.1103 Induction system ducts.

* * * * *

(c) Each flexible induction system duct must be capable of withstanding the effects of temperature extremes, fuel, oil, water, and solvents to which it is expected to be exposed in service and

maintenance without hazardous deterioration or delamination.

(d) For reciprocating engine installations, each induction system duct must be—

(1) Strong enough to prevent induction system failures resulting from normal backfire conditions; and

(2) Fire resistant in any compartment for which a fire extinguishing system is required.

(e) Each inlet system duct for an auxiliary power unit must be—

(1) Fireproof within the auxiliary power unit compartment;

(2) Fireproof for a sufficient distance upstream of the auxiliary power unit compartment to prevent hot gas reverse flow from burning through the duct and entering any other compartment of the airplane in which a hazard would be created by the entry of the hot gases;

(3) Constructed of materials suitable to the environmental conditions expected in service, except in those areas requiring fireproof or fire resistant materials; and

(4) Constructed of materials that will not absorb or trap hazardous quantities of flammable fluids that could be ignited by a surge or reverse-flow condition.

(f) Any induction system duct supplying air to a cabin pressurization system must be constructed of materials that will not produce hazardous quantities of toxic gases during a powerplant fire.

Explanation: This proposal adds standards for flexible inlet ducts, backfire strength and fire resistance requirements for reciprocating engine inlet ducts, requirements for auxiliary power unit inlet ducts, and requirements for cabin pressurization supply ducts in conjunction with induction system ducts.

Conference proposal 392 recommended the adoption of a new paragraph (c) to read the same as the paragraph proposed here except without the word "hazardous". The justification was that service experience has shown that certain flexible ducting, of the type most commonly used, is susceptible to deterioration and delamination when exposed to heat, fuel, and oil. At the conference, one commenter agreed with the intent of the recommendation but suggested inserting the word "excessive" before the word "deterioration". The FAA further considered this suggestion and concluded that the word "hazardous" is more appropriate to the objective of the proposal.

Conference proposal 393 recommended adding four new paragraphs stating many of the new requirements proposed in paragraphs (d) and (e) of this proposal. The justification given was that applications for approval of auxiliary power unit installations have been received by the FAA and applicants should be informed of the applicable requirements for such approvals.

At the conference, two commenters stated that putting bleed air duct requirements in the induction system section could be inappropriate. The FAA agrees and has not included the recommended paragraph addressing the bleed air duct in § 23.1103(a). Another commenter questioned whether it is intended that the applicant induce a backfire or series of backfires as a means of showing compliance with proposed paragraph (d)(1). The FAA has determined that the applicant is allowed the option of using any method that shows compliance to the rule; in this case, analysis may be more appropriate than actual testing.

Another commenter recommended backfires be limited to reciprocating engines and not be associated with turbine engines. The FAA agrees and has formatted the proposal accordingly.

Another commenter questioned if the phrase "the maximum heat conditions likely to occur" in the conference proposal is to be interpreted as fire resistant. Upon further consideration of these issues, the FAA replaced the questioned phrase with the phrase, "the environmental conditions expected in service."

Subsequent to the conference, the FAA determined as part of its crashworthiness improvements that any duct furnishing air to the cabin must not produce toxic fumes in case of a powerplant fire. A new § 23.1103(f) is proposed to add this requirement.

Reference: Conference proposals 392 and 393.

50. Part 23 is amended by adding a new §23.1107 to read as follows:

§23.1107 Induction system filters.

On reciprocating-engine installations, if an air filter is used to protect the engine against foreign material particles in the induction air supply—

(a) Each air filter must be capable of withstanding the effects of temperature extremes, rain, fuel, oil, and solvents to which it is expected to be exposed in service and maintenance; and

(b) Each air filter subject to failure that will release material large enough to interfere with fuel metering components must be provided with a screen downstream of the filter.

Explanation: This proposal would add design requirements for reciprocating-engine induction air filters not currently addressed in the rules.

Conference proposal 395 recommended a new induction system filter rule that, in addition to the requirements of this proposal, would require that each filter be simple to remove, inspect, and install without special tools and that each filter include instructions for servicing and replacement on the filter itself. The justification for the recommendation was that practically all part 23 airplanes incorporate induction system filters in the primary air ducts. Service experience has shown these filters to be the source of numerous problems: (1) deterioration due to water, heat, age, etc.; (2) incorrect installation sequence; and (3) loose parts clogging the carburetor or injector, etc.

At the conference, a majority of commenters agreed that requirements for induction air filters are appropriate; however, some commenters objected to including specific maintenance procedures in part 23. The FAA has further considered these issues and has concluded that the recommended maintenane procedures should not be included in this proposal.

Reference: Conference proposal 395.

51. Section 23.1121 is amended by adding introductory text to the section; by revising paragraph (c); and by adding a new paragraph (i) to read as follows:

§ 23.1121 General.

For powerplant and auxiliary power unit installations, the following apply—

* * * * *

(c) Each exhaust system must be separated by fireproof shields from adjacent flammable parts of the airplane that are outside of the engine and auxiliary power unit compartments.

* * * * *

(i) All exhaust system materials must meet the requirements of § 23.603 of this part.

Explanation: This proposal incorporates requirements for auxiliary power unit exhaust systems and a requirement for exhaust system materials and workmanship.

Conference proposal 397 recommended inserting the term "and auxiliary power unit" after the word "engine" in paragraph (c). The justification given was that applicants should be informed, through the rules, of the requirements for APU installations.

At the conference, a commenter questioned whether this should be defined as an "auxiliary power unit fire zone compartment". At this time, part 23 does not recognize fire zones as such.

The FAA has further considered these issues and has concluded that the words "fire zone" are not needed in this section. If a designated fire zone rule is adopted for part 23, then the auxiliary power unit compartment will be designated a fire zone by that section. If a fire zone designation proposal is not adopted, then the words "fire zone" would be inappropriate anywhere in part 23.

Two commenters suggested deleting the word "component" in current paragraph (c) because of the possible interpretation that each individual nut, bolt, washer, and clamp may have to be examined rather than taking the exhaust system as a whole. The FAA concurs that the word "component" is unnecessary; however, the term "system" does include each individual part of that system. All pieces of any system must be appropriate to the usage involved, including the environment in which they work. The word "component" has been deleted from the proposal.

Conference proposal 399 recommended the addition of a new pragraph to § 23.1123 establishing exhaust system material requirements and changing the word "manifold" to the word "system" throughout that section. The justification given was that there should be more stringent requirements on exhaust system materials that should

apply to all exhaust system components, not just the manifold.

A commenter stated that the real change recommended is the addition of the paragraph requiring exhaust system materials to meet the requirements of § 23.603 and recommended that such a material requirement belongs in §23.1121. The FAA agrees and has incorporated new paragraph (i) in this proposal.

Reference: Conference proposals 397, 398, and 399.

§ 23.1123 [Amended]

52. Section 23.1123 is amended in the section heading and paragraphs (a), (b), and (c) by removing the word "manifold" and inserting in its place the word "system".

Explanation. This proposal makes this section applicable to the total exhaust system rather than to the manifold only.

Conference proposal 398 recommended adding a lead-in sentence to § 23.1123, as follows: "For powerplant and auxiliary power unit installations the following apply:" The justification given was to set forth the exhaust manifold requirements for auxiliary power units when installed in an airplane. At the conference, the consensus agreed with the addition. The FAA concluded from the conference discussion that changing "exhaust manifold" to "exhaust system" in § 23.1123 clarifies the requirement and accomplishes the intent of conference proposal 398 because the requirements are applicable to the exhaust system rather than just the manifold assembly.

Conference proposal 399 recommended changing the word "manifold" to the word "systems" throughout this section because these requirements should apply to all the exhaust system parts that are required to experience the exhaust environment.

Conference proposal 400 recommended adding a sentence to read: "Materials used in exhaust manifolds must retain at least 25 percent of their room-temperature tensile strength when subjected to the highest exhaust gas temperature development in normal continuous high-cruise operation of the powerplant." The justification given was that 321 stainless steel used in exhaust systems loses over 80 percent of its tensile strength at 1650° F.

Conference commenters opposed this type of subjective requirement. The FAA agrees and is considering no further action on this recommendation; however, material requirements are being proposed in new § 23.1121(i).

Reference: Conference proposals 398, 399, and 400.

§ 23.1141 [Amended]

53. Section 23.1141 is amended in paragraph (e) by removing the phrase "For turbine engine powered airplanes".

Explanation. This proposal will make the more stringent powerplant control system requirements of this paragraph applicable to all part 23 airplanes, rather than only turbine-powered airplanes.

Conference proposal 401 recommended the deletion of the first phrase of current paragraph (e). The justification given was that: each flexible control must be of an acceptable kind (paragraph (b)); powerplant control failures in small airplanes are common and cause many accidents and incidents; single-strand controls wear rapidly and break at the fastener ends; plastic lined or covered controls melt under fire conditions and jam the control; and the current rules are inadequate to ensure against these types of failures.

Because of the problems with controls over the years, the FAA is proposing a requirement that no single failure of a control, such as a pushpull control separation, will cause the failure of any powerplant function necessary for safety.

Experience indicates that when the mixture control breaks, the mixture goes to idle cut-off, the engine stops and that is a failure. In the case of throttle control breakage, the throttle goes to idle, and the airplane cannot maintain flight. These are examples of failures that lead to the loss of function necessary for safety.

A commenter pointed out that there are engine systems where a failure that leads to an engine shutdown is not normally, in itself, considered to be a safety hazard. A shutdown is deemed a hazard only in single-engine airplanes and, if a failure that leads to a benign engine shutdown is not acceptable, something else must be done. There have been supplemental type certificates issued for emergency fuel systems that provide a separate fuel supply and insert it directly into the intake manifold through metering valves controlled by the pilot. Once back to the landing field, the fuel is cut off and the pilot makes a dead-stick landing. These fuel systems are for flying over the jungle and ensuring a return home. Such fuel systems are costly, but accomplish the mission.

The FAA has further considered these issues and concludes that paragraph (e) should be applicable to all part 23 airplanes.

Reference: Conference proposal 401.

54. Part 23 is amended by adding a new § 23.1142 to read as follows:

§ 23.1142 Auxiliary power unit controls.

Means must be provided on the flight deck for the starting, stopping, monitoring, and emergency shutdown of each installed auxiliary power unit.

Explanation: This proposal adds a requirement that the controls for any auxiliary power unit and monitoring be installed on the flight deck. Part 23 does not currently address requirements for auxiliary power unit installations; applications for such installations have, therefore, been subject to special conditions.

Conference proposal 403 recommended adding a new section on auxiliary power unit controls similar to § 25.1142. The justification given was that applicants for approval of the auxiliary power units should be informed of the requirements for these installations.

At the conference, a number of commenters spoke on several aspects of the recommendation. A majority of commenters agreed that the auxiliary power unit controls should be on the flight deck; however, clarification was desired. The FAA has further considered these issues and concludes that (1) the primary controls for starting, stopping, and monitoring the auxiliary power unit should be on the flight deck because the status of the systems that may be powered by the APU can be readily determined prior to start-up; (2) other "emergency shutdown" controls may be located elsewhere on the airplane for the convenience of maintenance personnel; (3) where the "emergency shutdown" system is essentially the same as the regular stopping system, there is no justification for addressing both; and (4) the flight crew should not be able to override an APU automatic shutdown.

Reference: Conference proposal 403.

55. Section 23.1143 is amended by adding a new paragraph (g) to read as follows:

§ 23.1143 Engine controls.

* * * * *

(g) For reciprocating single-engine airplanes, each power or thrust control must be designed so that if the control separates from the engine fuel metering device, the airplane is capable of continued safe flight and landing. In the event of such separation, the control must incorporate an adequate back-up system, or the fuel metering device must be automatically positioned at a setting that permits continued safe flight and landing from any point in the flight envelope of the airplane.

Explanation: This proposal requires a back-up system or automatic positioning of the fuel metering device to ensure that the engine continues to furnish adequate power if the pilot's control installation fails. Service experience shows that the primary mode of failure of the engine control is breakage/separation from the fuel metering device. Loss of engine power follows.

Conference proposal 402 recommended adding a new paragraph to § 23.1141 to require that, for small, single-engine airplanes, when throttle linkage separation occurs, the fuel control must go to a setting that will allow the pilot to maintain level flight in the cruise configuration. The justification given was that NTSB Recommendation A-81-6 requested this rule change and the FAA committed to the NTSB to include this recommendation in this review by letter dated October 21, 1983. This conference proposal is more appropriate to § 23.1143 because it addresses the throttle, power, and thrust controls specifically.

At the conference, one commenter had no objection to meeting the objective on single-reciprocating-engine airplanes; however, that commenter did object to the requirement that the fuel control must go to a specific setting. On turbine engines, there are safety back-up systems built into the fuel control. Powerplant control requirements for turbine engine powered airplanes for addressing failures are in § 23.1141(e). No changes are being proposed for these engines. In other cases, it may be possible to provide some supplementary system that will enable a

modicum of control, but that would not necessarily result in the fuel control going to a setting. There is one arrangement where there is an extra control run that acts on a different part of the fuel control unit and is, in effect, a crude power setting device.

Another commenter was concerned about a means of compliance and did not think that there is a single value (setting) that would serve for a given engine installation considering all the parameters of ambient conditions, temperature, altitude, loading, etc.

Conference proposal 404 recommended revising § 23.1143 by adding a new paragraph requiring that a means be provided to ensure that if throttle linkage separation occurs in a single-engine airplane, the fuel control will be automatically positioned at the full throttle position for agricultural airplanes, and an intermediate throttle position for other airplanes that will allow the pilot to maintain level flight in the cruise configuration. The justification was the same as conference proposal 402 (NTSB Recommendation A–81–6), except for the final sentence, which states, "However, in consideration of the typical low level operating environment of agricultural airplanes, the Safety Board believes that automatic positioning at the full throttle setting would be most appropriate under similar circumstances involving these type airplanes."

A commenter, citing an investigation done 3 or 4 years prior to the conference, questioned whether throttle control failure was a maintenance problem, as several of the failures occurred when the controls were fitted to the airplane by the manufacturer at least 15 years prior to the accident.

Another commenter stated that this recommendation addresses agricultural single-engine airplanes separately and the classification of the airplanes that have had the problem should be examined more closely. The commenter further stated that there might be differences among the small, single-reciprocating-engine airplanes, turboprop airplanes and turbofan airplanes. Because there is a substantial quality difference in the control mechanisms of these airplanes and the commenter would hate to see a high quality system that has no difficulty in service being burdened with a requirement for unwarranted redundancy.

Another commenter stated that, as an engine manufacturer, it has been offering an additional control capability on turboprop engines for single-engine installations, but has not been able to convince the airplane manufacturers to connect it up.

The FAA, upon further consideration of these issues, has concluded that the proposal should include the power or thrust control terms to make it applicable to reciprocating single-engine airplanes, allow an adequate back-up system as an alternative to a power position setting device, allow a range of power position setting with level flight cruise as a minimum and add the requirement for the capability of safe flight and landing.

Reference: Conference proposals 402 and 404.

§ 23.1145 [Amended]

56. Section 23.1145 is amended in paragraph (a) by removing the word "engine" and inserting in its place the phrase "reciprocating and turbine engine and must be located and arranged to allow operation by the flight crew."

Explanation: This proposal clarifies the requirement for ignition system control by the flight crew on all types of airplane engines regardless of principle of operation. This will avoid the misinterpretation that § 23.1145 (a) and (b) apply only to reciprocating engines.

A manufacturer has recently developed an automatic ignition system for its turboprop engine to correct an engine flameout problem that developed in service. The automatic ignition system proposed would provide the pilot with a choice of an "automatic" position, or a "continuous" position but with no "off" position as required by paragraph (b). The FAA concludes that clarification of § 23.1145 is necessary.

Reference: Questions from the public requesting interpretation and clarification.

57. Section 23.1147 is amended by redesignating the introductory text of paragraph (a) and paragraphs (a)(1) and (a)(2) as paragraphs (a)(1) introductory text, (a)(1)(i), and (a)(1)(ii) respectively; by redesignating the introductory text to the section as the introductory text of paragraph (a); by redesignating paragraph (b) as paragraph (a)(2); and by adding a new paragraph (b) to read as follows:

§ 23.1147 Mixture controls.

* * * * *

(b) A means must be provided to assure that each engine mixture control device will move automatically to the full-rich position in the event it becomes disconnected from the mixture control linkage.

Explanation: This proposal would add a rule to require mixture control go to a full-rich setting if the pilot control system linkage becomes separated for any reason. This requirement would prevent the mixture control from inadvertently moving into idle-cut-off setting when the disconnect occurs. While the full-rich setting is not considered ideal for most circumstances, it is judged to be the best of the alternatives.

Conference proposal 405 recommended adding a new requirement into § 23.1147 to require the mixture control lever to move automatically to the full-rich position in the event the linkage becomes disconnected. A commenter at the conference supported the proposal.

The FAA has concluded that § 23.1147 should be amended to require full-rich fuel mixtures when a mixture control linkage fails, regardless of whether part 33 is subsequently amended to require such features. This amendment to § 23.1147 will ensure currently approved engines that continue to be produced will have this safety feature when installed in part 23 airplanes.

Reference: Conference proposal 405.

58. Part 23 is amended by adding a new § 23.1181 to read as follows:

§ 23.1181 Designated fire zones; regions included.

(a) Designated fire zones are—

(1) The power section of reciprocating engines;

(2) The accessory section of reciprocating engines;

(3) Any complete powerplant compartment in which there is no isolation between the power section and the accessory section, for reciprocating engines;

(4) Any auxiliary power unit compartment;

(5) Any fuel-burning heater and other combustion equipment installation described in § 23.859;

(6) The compressor and accessory sections of turbine engines; and

(7) The combustor, turbine, and tailpipe sections of turbine engine installations that contain liens or components carrying flammable fluids or gases.

(b) For commuter category airplanes, each designated fire zone must meet the requirements of § 23.1195 through § 23.1203.

Explanation: This proposal would add a new section identifying designated fire zones. Previously, fire zones have not been identified as such in part 23, although, functionally, there are a number of fire zones in small airplanes.

Conference proposal 407 recommended a new section be adopted for commuter category airplanes that designated fire zones and was patterned after § 25.1181. The justification given was that a comment in response to Notice No. 83–17 recommended that fire zones be designated for commuter category airplanes.

At the conference, the commenters objected to discussing commuter rules at the part 23 Review. After the FAA requested comments on the conference proposal only in relation to part 23 airplanes, a number of comments were forthcoming. Conference consensus agreed that a new § 23.1181 to designate fire zones would be appropriate but some commenters expressed concerns about proposal details; i.e., the proposal should more clearly define the fire zones for reciprocating engines, turbine engines, auxiliary power units, and combustion heaters and clarify the term "compartment".

The FAA has further considered these issues and, in response to the comments, proposes to define each designated zone with respect to a reciprocating engine, turbine engine, auxiliary power unit, or other combustion device. The commuter requirement was moved to new paragraph (b). The FAA has determined the word "compartment" is the most appropriate of the words available. A compartment can be any size, shape, or configuration. For the purpose of this proposal, compartment means a relatively close-fitting, total enclosure; the word does not inhibit design flexibility.

The FAA concluded that fire zones should be identified and designated, although that

designation does not, in itself, impose any new requirements on them. Adequate fire resistance and fireproofing requirements are already incorporated in several other sections of the rules.

Reference: Conference proposal 407.

59. Section 23.1189 is amended in paragraph (a) introductory text by removing the words "subject to § 23.67(a) and § 23.67(b)(1)" and by revising paragraph (a)(5) to read as follows:

§ 23.1189 Shutoff means.

(a) * * *

(5) Not more than one quart of flammable fluid may escape into the engine compartment after engine shutoff. For those installations where the flammable fluid that escapes after shutdown cannot be limited to one quart, it must be demonstrated that this greater amount can be safely contained or drained overboard.

* * * * *

Explanation: The proposal changes this section's applicability to all multiengine airplanes and quantifies the hazardous amount of flammable fluid. For fuel, the hazardous quantity was established as one quart by FAA policy and practiced many years ago. It was incorporated into § 23.953(b)(1) in 1979 and is proposed for this section to clarify the intent for all flammable fluids.

Conference proposal 409 recommended revising § 23.1189(a)(5) by replacing the words "no hazardous amount of flammable fluid" with the words "no more than one quart of flammable fluid (or any greater amount shown to be safe)". The justification given was that a definition for "hazardous quantity" of flammable fluid is needed.

At the conference, the majority of commenters agreed that such a definition is necessary. One commenter expressed confusion by the term "drain into the engine compartment" because the term could imply draining into a container. This commenter suggested clarification that this is free fluid in the engine compartment.

The FAA has further considered these issues and has concluded that the word "drain" in the current rule should be changed to "escape".

In other sections of the rules, the word "drain" connotes a capability of controlling the flow of fluid, sometimes catching it in a container. "Control" may be limited to ensuring that the fluid drains overboard at predetermined locations in predictable patterns. In this case, the intent is to limit the uncontrolled release or "escape" of flammable fluids to a predictable quantity. It is understood that fluid escaping from a broken component may or may not depart the airframe through existing cowling drain provisions. Therefore, the word "drain" has been changed to the word "escape" in this context.

FAA is proposing another Notice of Proposed Rulemaking on crash-resistant fuel systems for part 23 airplanes. This notice proposes changes to improve crash resistance of fuel systems. A proposed design change is included to limit fuel spillage in survivable accidents to reduce fire-related fatalities. The proposal requires the fuel system to be designed so that no more than 8.0 ounces of fuel will be liberated by any rupture that will occur in specific junctures of lines and connections, as a result of a survivable accident.

The reference to § 23.67 in § 23.1189 is being deleted so § 23.1189 will be applicable to all multiengine airplanes, as originally intended. The reference to § 23.67 in § 23.1189 did not keep current with the changes in § 23.67.

Section 23.67, climb: one engine inoperative, was amended by amendment 23–21, effective March 1, 1978. This amendment changed paragraphs (a) and (b) to be applicable for reciprocating engine-powered multiengine airplanes and added paragraph (c) to be applicable for turbine-powered multiengine airplanes. Paragraphs (a) and (b) are further restricted to airplanes of more than 6,000 pounds and 6,000 pounds or less maximum weight, respectively. Amendment 23–34, effective date February 17, 1987, further amended § 23.67. This amendment added airworthiness standards for commuter category airplanes to part 23 of the FAR. With amendment 23–34, § 23.67, paragraphs (a), (b), and (c) were changed to further limit their application to normal, utility, and acrobatic airplanes and a new paragraph (e) was added for one engine inoperative climb for the commuter category airplanes. During this time, the reference to §§ 23.67(a) and 23.67(b)(1), in § 23.1189, did not change. The original application of § 23.1189 was for all reciprocating engine-powered multiengine airplanes only. Since turbine-powered multiengine airplanes should also be included, the reference to § 23.67 is being deleted.

Reference: Conference proposal 409.

60. Section 23.1191 is amended in paragraph (a) by removing the words "intended for operation in flight,"; in paragraph (b) by removing the word "engine" and inserting in its place the word "isolated"; by removing and reserving paragraph (d) in paragraph (f)(1) by removing the term "2000±50 °F" and inserting in its place the term "2000±150 °F"; and by adding a new paragraph (h)(6) to read as follows:

§ 23.1191 Firewalls.

* * * * *

(h) * * *

(6) Titanium sheet, 0.016 inch thick.

Explanation: This proposal removes a rule that allows, under certain circumstances, fire resistant seals in fireproof firewalls, adds a new firewall material, and clarifies the intent that all heat producing devices must be separated from the airframe by firewalls or shrouds.

Conference proposal 410 recommended the deletion of § 23.1191(d). The justification was that fire resistant seals do not provide an adequate level of safety. Openings in firewalls on single-engine airplanes and multiengine airplanes not subject to § 23.67(a) or (b)(1) should meet the more stringent requirements of § 23.1191(c).

At the conference, a commenter pointed out that § 23.1191(a) requires firewalls, shrouds, etc., only for those heat-producing devices "intended for operation in flight". Such devices, when only operated on the ground, do not require firewall protection.

Another commenter objected to conference proposal 410 because it contained no cost/benefit analysis in the justification and because the group that the commenter represented needed to study and better understand the benefits of the proposal. At the conference, the FAA assured the commenter that such analysis would be accomplished before a proposal is presented for public comment.

The FAA has further considered these issues and has concluded that the intent of this section is to protect the airframe from high temperature producing equipment whether operated in flight or on the ground. Except for the engine, most of this equipment, when or where it is operated, requires little attention from the operator. Even those auxiliary power units only operated on the ground that demand minimum attention, have been and should be required to be installed in fireproof containers or compartments. This proposal would amend paragraph (a) by removing that part referring to operation in flight. In paragraph (b) the word "engine" is changed to the word "isolated" to parallel the requirement with paragraph (a) for all compartments.

The intent of the firewall requirement is to meet the fireproof requirements (withstand 2000° F flame for 15 minutes) for the total firewall installation. Allowing the seals on small openings to burn away after 5 minutes has been permitted; however, these openings have been limited to 1/32 inch radial clearance around components passing through the firewall. Even these openings are required to show by test that a hazardous amount of flame will not pass through. The FAA has concluded that, with the advent of modern, fireproof seals, this rule is obsolete for new designs.

Conference proposal 411 recommended adding a new paragraph (h)(6) to allow the use of 0.016 inch thick titanium sheet for firewall material without further testing. The justification given was that one aircraft manufacturer has qualified and used 0.016 inch thick titanium on its aircraft. This change would allow future use without costly development testing and increases the choice of previously qualified materials. When presented for discussion at the conference, a commenter stated that Joint Airworthiness Requirements (JAR) 25 allows 0.018 inch thick titanium as equivalent to the other materials specified in paragraph (h).

A post conference search discovered CAA Technical Development Report No. 317, dated September 1957, that shows test results for 0.016 inch titanium.

In paragraph (f)(1), the temperature tolerance of ±50 °F is raised to ±150 °F. The readily available test equipment has difficulty maintaining the required tolerance over a five-by-five inch area for five minutes.

The FAA has accepted the industry practice of ±150 °F on past certification programs.

Reference: Conference proposals 410 and 411.

61. Section 23.1193 is amended by revising paragraph (b) to read as follows:

§ 23.1193 Cowling and nacelle.

* * * * *

(b) There must be means for rapid and complete drainage of each part of the cowling in the normal ground and flight attitudes. Drain operation may be shown by test, analysis, or both, to ensure that under the most adverse aerodynamic pressure distribution expected in service each drain will operate as designed. No drain may discharge where it will cause a fire hazard.

* * * * *

Explanation: This proposal clarifies the intent of the rule; i.e., the drains must assure that all free fluids depart the airframe under any operating condition, whether in flight or on the ground.

Conference proposal 412 recommended revising paragraph (b) by replacing the words "flight attitudes" with the phrase "during all intended flight conditions" because this rule only requires an evaluation of the drain provision on the ground. Experience has shown that drains that work on the ground may not drain in flight when aerodynamic pressures are acting across the drains.

At the conference, a commenter suggested that the rule should require a flight test evaluation of the drain system. Another commenter objected to the proposed words "all intended flight conditions" because the FAA could require a flight test program that would go on forever and suggested perhaps the language could be improved by allowing analysis as an acceptable means of compliance. The FAA agrees that a test is needed to ensure that the drains work under all flight conditions. Certain evaluations and analyses can be done on the ground, but the ultimate proof is in the flight evaluation. The FAA, upon further consideration, concludes that the better approach to this problem would be to leave the current wording as is and add a new explanatory sentence to clarify the intent of the rule; i.e., that the drains enable any free fluids to escape the airframe under any expected operating condition.

Conference proposal 413 recommended adding a new paragraph (g), "Each cowling must be easily removable, without special tools or techniques, for routine maintenance. No more than 24 fasteners may be used to secure the cowling unless it can be shown that a single unaided technician can remove and install the cowling in less than five minutes using ordinary hand tools, or unless individual access covers sufficient in number and placement to accomplish all required between-100-hour checks have been provided in the cowl exterior". No justification was given for the recommendation. When presented for comment at the conference, the first commenter objected to the proposal as too detailed. The second commenter observed that ordinary hand tools could include can openers, hack saws, and axes; etc., and is not regulatory language. The FAA agrees that while such a requirement could aid in maintenance, it is not an airworthiness standard and plans no further consideration of this conference proposal.

Reference: Conference proposals 412 and 413.

62. Section 23.1195 is amended by redesignating paragraphs (a), (b), and (c) as paragraphs (a)(1), (a)(2), and (a)(3), respectively; by designating the introductory text of the section as paragraph (a) introductory text; and by adding a new paragraph (b) to read as follows:

§ 23.1195 Fire extinguishing systems.

* * * * *

(b) If an auxiliary power unit is installed in any airplane certificated to this part, that auxiliary power unit compartment must be served by a fire extinguishing system meeting the requirements of paragraph (a)(2) of this section.

Explanation: This proposal adopts requirements for auxiliary power unit compartment fire extinguishing systems. Currently, there are no requirements for such systems.

Conference proposal 414 recommended revising the § 23.1195, proposed in Notice No. 83–17, by inserting the words "and auxiliary power units" into the lead sentence after the word "airplane" and into paragraph (c) after the word "nacelle", two places. The justification given was that applicants for approval of auxiliary power unit installations should be informed of the requirements for such installations.

The proposal for a new § 23.1195 in Notice 83–17 was issued as a final rule (52 FR 1806, January 15, 1987). At the conference, three commenters objected to the word "simultaneously" because it could mean that the fire extinguishing system could be discharged into both an engine nacelle and the auxiliary power unit compartment at the same time. They did not think that was the intent of the proposed rule. The word "simultaneously" in the conference proposal was intended to indicate the capacity of the fire extinguishing system rather than to literally flood both areas instantaneously. One commenter recommended the adoption of the proposal for all part 23 airplanes, not just the commuter category. Another commenter objected to requiring all part 23 airplanes to have engine compartment fire extinguishing systems. The FAA agrees that there is no need for a fire extinguishing system in many engine installations. However, in some instances, for example where the engine is installed within the fuselage, extinguishing systems have been required.

The FAA has further considered these issues and is proposing a fire extinguishing system for all auxiliary power unit compartments, as such compartments are usually in the fuselage where the consequences of a fire are more varied and adverse than the typical engine fire.

Reference: Conference proposal 414.

63. Section 23.1203 is amended in paragraph (e) by removing the words "an engine compartment" and inserting in their place the words "a fire zone"; by removing the introductory text to the section; and by revising paragraph (a) to read as follows:

§ 23.1203 Fire detection system

(a) There must be means that ensures the prompt detection of a fire in—

(1) An engine compartment of—

(i) Multiengine turbine power airplanes;

(ii) Multiengine reciprocating engine powered airplanes incorporating turbochargers;

(iii) Airplanes with engine(s) located where they are not readily visible from the cockpit; and

(iv) All commuter category airplanes.

(2) The auxiliary power unit compartment of any airplane incorporating an auxiliary power unit.

* * * * *

Explanation: This proposal incorporates new requirements for fire detector systems in auxiliary power unit compartments and in the engine compartments on those airplanes where the engine(s) are not readily visible from the cockpit.

Conference proposal 415 recommended adding a new requirement by inserting the words "auxiliary power units" into the lead-in sentence and the words "and auxiliary power unit compartment" into paragraph (e). The justification given was that applicants for approval of auxiliary power unit installations should be informed of the requirements for such installations.

At the conference, a commenter suggested adding the words "fire zone" after the words "auxiliary power unit compartment" to further define the fire resistance capability of the area. The FAA agrees and proposes to revise paragraph (e) by removing the words "an engine and auxiliary power unit compartment" and replacing them with the words "a fire zone".

Conference proposal 416 recommended revising the lead-in sentence by adding at the end the statement "and airplanes with engine(s) located such that they are not readily visible from the cockpit". The justification given was that an engine compartment fire with an engine that was located on or near the centerline of the aircraft and aft of the pilot's station could go undetected for a significant period of time and could result in catastrophic failure of other main components. At the conference, a commenter agreed that the addition appears reasonable and the FAA agrees.

The FAA has further considered these issues and has concluded that this section lead-in would become too detailed and cumbersome. Therefore, the lead-in sentence and paragraph (a) have been combined and rearranged to clarify the intent of this section.

Reference: Conference proposals 415 and 416.

64. Section 23.1303 is amended by revising paragraph (c) to read as follows:

§ 23.1303 Flight and navigation instruments.

* * * * *

(c) A direction indicator (nonstabilized magnetic compass).

* * * * *

Explanation: This proposal would clarify the intent of the regulations for a magnetic nonstabilized direction indicator. The nonstabilized magnetic direction indicator, which does not require power from the airplane's electrical systems, provides directional information to the pilot when all other directional navigation systems have failed due to loss of power. There have been contentions that a magnetic direction indicator with a remote magnetic sensor should be acceptable because only one magnetic direction indicator is required and it is more accurate for navigation.

When the requirement for a magnetic direction indicator was promulgated, only a nonstabilized magnetic direction indicator (magnetic compass) was envisioned. Requirements in the operating rules for various kinds of operations are in addition to these basic requirements for type certification. The minimum level of safety established by these regulations was based on the reliability and failure modes of the nonstabilized magnetic compass and its ability to provide continuous heading information due to its functional independency.

Conference proposals 418 and 419 recommended listing all the instruments that are in the operational requirements. They are categorized in parts 91 and 135 by kinds of operations, such as day VFR, night VFR, IFR, and icing. At the conference, the consensus was that such requirements for part 23 airplanes should remain in the operating rules and not be redundantly stated in part 23. Instruments and equipment installed to qualify the airplane for the various kinds of operations set forth in the operating rules must be found to comply with applicable requirements of this subpart and be listed in the Airplane Flight Manual (AFM) in accordance with § 23.1583.

Conference proposal 419 further recommended dual instruments for commuter category airplanes. The minimum crew requirements for type certification may be different than the operational requirements of parts 91 and 135. If a second pilot is required for a specific operation, the instruments used by that pilot must also comply with § 23.1321. The FAA is unaware of any configuration that would comply with § 23.1321 without each pilot having an individual set of instruments.

Proposal 421 is being considered under § 23.1331, since it dealt with independent power sources for instruments.

Reference: Conference proposal 418, 419, and 421.

65. Section 23.1305 is revised to read as follows:

§ 23.1305 Powerplant instruments.

The following are required powerplant instruments:

(a) *For all airplanes.*

(1) A fuel quantity indicator for each fuel tank, or for each assembly of interconnected tanks that function as one tank.

(2) An oil pressure indicator for each engine.

(3) An oil temperature indicator for each engine.

(4) An oil quantity measuring device for each oil tank.

(5) A fire warning means for those airplanes required to comply with § 23.1203.

(b) *For reciprocating engine-powered airplanes.* In addition to the powerplant instruments required by paragraph (a) of this section, the following powerplant instruments are required:

(1) An induction system air temperature indicator for each engine equipped with a preheater and having induction air temperature limitations that can be exceeded with preheat.

(2) A tachometer indicator for each engine.

(3) A cylinder head temperature indicator for—

(i) Each air-cooled engine with cowl flaps;

(ii) Each airplane for which compliance with § 23.1041 is shown at a speed higher than V_y; and

(iii) Each commuter category airplane.

(4) A fuel pressure indicator for each pump fed engine.

(5) A manifold pressure indicator for each altitude engine and for each engine with a controllable propeller.

(6) For each turbocharger installation:

(i) If limitations are established for either carburetor (or manifold) air inlet temperature or exhaust gas or turbocharger turbine inlet temperature, indicators must be furnished for each temperature for which the limitation is established unless it is shown that the limitation will not be exceeded in all intended operations.

(ii) If its oil system is separate from the engine oil system, oil pressure and oil temperature indicators must be provided.

(7) A coolant temperature indicator for each liquid-cooled engine.

(c) *For turbine engine-powered airplanes.* In addition to the powerplant instruments required by paragraph (a) of this section, the following powerplant instruments are required:

(1) A gas temperature indicator for each engine.

(2) A fuel flowmeter indicator for each engine.

(3) A fuel low pressure warning means for each engine.

(4) A fuel low level warning means for any fuel tank that should not be depleted of fuel in normal operations.

(5) A tachometer indicator (to indicate the speed of the rotors with established limiting speeds) for each engine.

(6) An oil low pressure warning means for each engine.

(7) An indicating means to indicate the functioning of the powerplant ice protection system for each engine.

(8) For each engine, an indicating means for the fuel strainer or filter required by § 23.997 to indicate the occurrence of contamination of the strainer or filter before it reaches the capacity established in accordance with § 23.997(d).

(9) For each engine, a warning means for the oil strainer or filter required by § 23.1019, if it has no bypass, to warn the pilot of the occurrence of contamination of the strainer or filter screen before it reaches the capacity established in accordance with § 23.1019(a)(5).

(10) An indicating means to indicate the functioning of any heater used to prevent ice clogging of fuel system components.

(d) *For turbojet/turbofan engine-powered airplanes.* In addition to the powerplant instruments required by paragraphs (a) and (c) of this section, the following powerplant instruments are required:

(1) For each engine, an indicator to indicate thrust or to indicate a parameter that can be related to thrust, including a free air temperature indicator if needed for this purpose.

(2) For each engine, a position indicating means to indicate to the flight crew when the thrust reverser, if installed, is in the reverse thrust position.

(e) *For turbopropeller-powered airplanes.* In addition to the powerplant instruments required by paragraphs (a) and (c) of this section, the following powerplant instruments are required:

(1) A torque indicator for each engine

(2) A position indicating means to indicate to the flight crew when the propeller blade angle is below the flight low pitch position, for each propeller, unless it can be shown that such occurrence is highly improbable.

(3) For each gearbox or transmission, a chip detector indicator light.

Explanation: This proposal clarifies the powerplant instrument requirements by separating the reciprocating engine, turbine engine, turbojet/turbofan, and turbopropeller requirements; and adding requirements for coolant temperature indicator, fuel low-level warning, manifold pressure indicator, and chip detector indicator.

Conference proposal 422 recommended revising paragraph (a) by adding the phrase "or for each unit of interconnected tanks functioning as a unique tank". The justification given was that this recommendation is consistent with § 23.953(b), which makes no distinction between a single fuel tank and series of fuel tanks interconnected to function as a single fuel tank. At the conference, the commenters agreed the change would clarify the rule; however, one commenter suggested that the word "unique" should be the word "single". The proponent agreed that the word should be "single". Post conference review led to the clarified proposal to ensure that the requirement is consistent with § 23.1337(b)(4).

Conference proposal 423 recommended revising paragraph (b) by inserting the phrase "or a low oil pressure warning" after the word "indicator". The justification given was that usually a pressure indicator comprises 3 ranges: for the proper functioning, for caution, and for warning the crew of a failure or an abnormal condition. An indication in the caution range will require more attention from the crew, which possibly takes corrective actions if the indication goes into the "failure range" (reduce the power, land as soon as possible). With a low oil pressure warning suitably adjusted, the corrective actions will be the same and safety is not impaired. At the conference, the proponent stated that this conference proposal is a cheaper way to achieve the same conclusion. The low pressure warning should be set to function as soon as there is a small loss of oil pressure. Two commenters opposed the change because a single light cannot furnish the trend information, both high and low pressure, that is required in an engine oil pressure instrument. The FAA agrees that, with few exceptions, the powerplant instruments specified under § 23.1305 are expected to provide trend information.

Another commenter pointed out there are trends toward unregulated oil systems that have extreme pressure variations. The commenter stated his belief that a single point indication would be adequate in this case and that the current rule permits such a simple readout, even though it may not meet the part 1 definition of an instrument.

The FAA reviewed the part 1 definition of the word "instrument", and other technical data and has concluded as follows: (1) where a light is sufficient, the instrument requirement should be changed to a "warning means"; (2) where trend information is needed, the word "indicator" should be retained; and (3) where point operation or steps in a sequence need to be shown, the words should be changed to "indicating means"; i.e., the functioning of an ice protection system.

Conference proposal 424 recommended revising § 23.1305(d) by adding a new requirement: "Tachometer scale error must not exceed 2 percent" and by adding to paragraph (h) the words "and for each engine with a controllable propeller". The justification given was that when excessive vibration stresses are found in portions of the normal operating range, § 23.1549(d) requires a red arc on the tachometer that means "do not operate" in this range. Experience and field surveys show tachometers are not accurate enough to prevent operation in the high stress area that ultimately results in propeller blade failures. Manifold pressure, along with engine rpm, is necessary for engines with controllable propellers to determine power settings.

At the conference, six commenters objected to adding the tachometer scale accuracy requirement because they considered it was not needed or appropriate. The conference consensus was to leave it up to the engine installation manual to state the required instrument accuracies. Most engine-propeller combinations do not need a high accuracy instrument to aid in avoiding any excessive vibration rpm ranges. Another commenter stated that the addition to paragraph (h) is acceptable as long as the requirement is restricted to reciprocating engine airplanes. Also, in paragraph (e), the rule should allow the exemption of some rotors from the speed readout requirement where those rotor speeds are not particularly significant. There are a large number of turbine engines with three rotors where one or two rotors are so dependent on the remaining rotor(s) that their speeds are not of any particular interest to the flight crew.

The FAA considered these issues and concluded that the tachometer accuracy is not needed, and no change is needed to paragraph (3) because the words "rotors with established limiting speeds" are adequate. Because of the apparent cost impact of requiring very accurate tachometers in airplanes where they are not needed, the FAA has determined that the appropriate place for specifying instrument accuracy is the engine installation manual. The same is true for the significant rotor speeds of paragraph (e). The installation manual should specify the rotor speed(s) information of use to the flight crew and for tachometer range marking.

Conference proposal 425 recommended adding a new paragraph (x) to read as follows: Each powerplant instrument required in paragraphs (d), (e), (g), (j), (k), (l), and (m) must display trend and rate of change indication. The justification given was that electronic displays, with lighted elements, required a specific, discrete update rate or time to display the information. This rate or time is critical to the readability of the display and is not presently controlled by the regulations.

At the conference, the several commenters did not reach a consensus. After further consideration, the FAA has concluded that each instrument installation must be evaluated individually; however, analog indicators are usually best at showing rates and trends. One commenter stated that paragraph (1) needed clarification and suggested the words "gas stream pressure" be replaced with the word "parameter". The FAA has considered these issues and has concluded that electronic displays should be addressed in a new § 23.1311. Notice 5 of the Small Airplane Airworthiness Review Program contains that proposal. The suggested change to paragraph (1) has been determined to be appropriate and has been incorporated in proposed § 23.1305(d)(1) of this proposal.

Conference proposal 426 recommended revising paragraph (f) by adding "and for each engine with pilot-operated mixture control" and paragraph (h) by adding "and for each engine driving a constant speed propeller" because this section does not properly define the requirements for cylinder head or manifold pressure instruments. Cylinder head limit temperatures can be exceeded by leaning the engine, and manifold pressure is needed to determine power settings and avoid over-boosting. At the conference, a commenter questioned the need for the change to (f), particularly since compliance with § 23.1041 must be shown. Another commenter stated that there are a great number of airplanes in use today that have pilot-operated mixture controls but do not have a cylinder head temperature (CHT) indicator. Another commenter objected to the paragraph (f) proposal if having automatic mixture control would allow deletion of the CHT indicator. The FAA has considered these issues and concluded that paragraph (f) needs to be clarified. As noted previously, the entire section has been rearranged to separate the requirements for the several modes of aircraft propulsion.

Conference proposal 427 recommended revising paragraph (f) by deleting the phrase "with cowl flaps". This would make CHT instrumentation mandatory on all air-cooled reciprocating engines. No further justification was offered. At the conference, five commenters agreed that a CHT indicator would be nice to have on any reciprocating engine installation, but is not always a necessity. The FAA agrees that CHT indicators are handy, but since cooling tests are normally run under critical operating conditions, with or without cowl flaps, there is no need for CHT indicators on all reciprocating engine airplanes. The FAA plans no further action on this recommendation.

Earlier airworthiness standards contained requirements for both liquid-cooled and air-cooled engine installations. The requirement for a coolant temperature indicator for liquid cooled engines was deleted from the rules, without explanation, by Civil Air Regulations, amendment 3–5, effective October 1, 1959. Since there have been few, if any, liquid-cooled engines installed in part 23 airplanes, the lack of this requirement was not noted until the Small Airplane Airworthiness Review Program. New design features are making the liquid-cooled engine attractive for installation; therefore, the requirements for coolant temperature indicator needs to be readopted into part 23.

Conference proposal 429 recommended revising paragraph (g) by inserting the words "or a low fuel pressure warning" after the word "indicator". The justification given was that a low fuel pressure warning will better alert the pilots than an indicator will if the fuel pressure falls. The corrective action taken by the pilot is the same whatever the indication means. At the conference, two commenters supported the proposal, particularly for turbine engine airplanes. Review of equivalency findings allowing fuel low pressure warning lights on some turbine powered airplanes, led the FAA to conclude

a low fuel pressure warning is an acceptable alternative to an indicator for turbine engines.

Conference proposal 430 recommended revising § 23.1305 by deleting paragraph (n) entirely since a requirement to indicate to the crew when the propeller blade angle is below the flight low pitch stop is redundant. Section 23.1155 currently requires that a separate and distinct operation by the crew is necessary to displace the propeller control from the flight regime to below the flight idle position. This equates to a conscious and deliberate selection of propeller blade angles below flight idle. Deliberate crew action, when taken in combination with an undeniable and immediately discernible drag rise from propeller blade angles below flight idle stop, will achieve the necessary level of safety envisioned by part 23.

At the conference, a commenter stated that § 23.1305(n) appears to be redundant because § 23.1155 requires stops and distinct operation of the power lever to go to blade angles below flight idle. Another commenter stated that § 23.1305(n) originated with piston engines that incorporated a mechanical flight low pitch stop. If the stop failed, the flight crew should be alerted. Modern propellers on turboprop engines have different characteristics. Any failure of the system on the hydraulic (oil pressure) side will result in the propeller increasing in pitch. The hazard the current rule addresses no longer exists and there is no benefit to the required indication.

A commenter stated that since some airplanes are taxied with the propeller in the Beta range, it is a good idea to have the indication so the pilot knows when the propeller moves into the flight range. Another commenter questioned whether there is a failure mode that could cause the blade to move to low pitch angle, and, therefore, require the pilot to be warned. A commenter stated that modern propellers will move toward feather except in the case of certain structural failures. Older systems could fail in such a way that the blades would go toward flat pitch and, invariably, those propellers had backup systems to prevent that from happening. It should be pointed out that Beta range is not always consigned to ground operation. On short takeoff and landing (STOL) airplanes, it is part of the normal flight regime.

A commenter attempted to clarify the discussion in that some early model reciprocating engine propellers, when hydraulic (oil) pressure was lost, would go into low pitch through normal centrifugal twisting moment forces. Later model propellers are counterweighted so that when hydraulic pressure is removed, the natural geometry and mass of the blade will move it to high pitch position. With respect to the Beta range, modern turboprop engines provide for a Beta light to show when the engine is in the Beta mode of operation. This mode can include reverse pitch and forward blade angles up to and above the flight low pitch stop position. It is a mode of operation controlling blade angle, as opposed to governing. The rule either needs to be deleted or clarified to provide the indication of interest; i.e., the Beta range.

A commenter made the observation that there is a degree of antiquity in this rule. He asked if there was anyone who remembered the perceived hazard that initiated this rule? Also, there are some airplane types that are in compliance with this rule, after the Beta light was deleted, based on power lever position. The FAA replied that some designs could inadvertently get into Beta range due to a particular failure mode and concludes that an indication is needed. The FAA does not see a conflict between §§ 23.1155 and 23.1305; the former requires a stop and a distinct operation of the power lever while the latter requires an indication to the pilot.

The FAA has further considered these issues and concluded that the requirement for a blade position indicating means for each turboprop engine propeller should be retained. This requirement is included in the new turboprop requirement paragraph.

Conference proposal 431 recommended revising § 23.1305(p) by inserting the parenthetical wording "(or manifold)" after the word "carburetor"; and inserting the words "or turbocharger turbine inlet" after the word "gas". The justification given was that this proposal includes fuel injected and turbocharged engines, which may have limiting temperatures. At the conference, the consensus supported the recommendation. The FAA concurs and this recommendation has been included.

Subsequent to the part 23 review, the FAA became aware of safety benefits that could be offered by the installation of a warning light that would alert the pilot that the fuel in the tanks being used was at a low level. Such a low level fuel warning light would alert the pilot to take action to either make a fuel management correction or to land the airplane prior to fuel starvation and engine stoppage. To provide this additional level of safety for fuel systems, a low level warning means has been proposed in § 23.1305(c)(4).

Service experience also indicates that it may be appropriate to require chip detector indicator lights for turbine engines and gear boxes. These lights show trend information in that they indicate distress in the engine bearings and gear drives allowing corrective action before total failure. Generally, if oil filter bypass, low oil pressure, or high oil temperature is indicated, it is too late for effective corrective action; the failure is imminent. Proposed chip detector indicator lights are added in § 23.1305(e)(3).

Reference: Conference proposals 422, 423, 424, 425, 426, 427, 429, 430, and 431.

66. Section 23.1307 is amended in paragraph (a) by removing the words "an approved" and inserting in their place the word "a"; and by adding a new paragraph (c) to read as follows:

§ 23.1307 Miscellaneous equipment

* * * * *

(c) All equipment necessary for an airplane to operate in the National Airspace System (NAS) at its maximum operating altitude and in all kinds of operations and meteorological conditions for which it is certificated in accordance with § 23.1559 must be included in the type design.

Explanation: This proposal deletes the word "an approved" in § 23.1307, and adds a new requirement that all equipment items necessary for the airplane to operate in the National Airspace System (NAS) to its maximum approved altitude and in all kinds of operations for which it is approved must be included in the type design.

Conference proposal 432 recommended deleting § 23.1307(a) in its entirety, because it was redundant to § 23.785(b). Conference proposal 433 recommended deleting only the word "approved" in § 23.1307(a).

Both §§ 23.1307 and 23.785(b) contain seat requirements; however, § 23.1307(a) only requires a seat or berth for each occupant, while § 23.785(b) contains specific design requirements for each seat, berth, safety belt, and shoulder harness, but does not include requirements for a seat or berth to be provided for each occupant. The requirements of § 23.1307(a) were added by amendment 23–23 to eliminate questions as to the maximum seating capacity and compliance with the emergency exit requirements. The FAA does not consider these requirements to be redundant and plans no further action on these recommendations.

A new paragraph (c) is added because the FAA considers it necessary to clarify the type design requirements for part 23 airplanes relative to equipment items. Frequently, manufacturers have requested their airplanes be approved relative to structural, performance, and propulsion requirements for a specific altitude without also requesting approval of necessary equipment to operate at that altitude. The FAA considers it necessary for the type design to include all equipment necessary for operation in accordance with the limitations required by §§ 23.1559 and 23.1583.

Reference: Conference proposals 432 and 433.

67. Section 23.1322 is amended by adding a new paragraph (e) to read as follows:

§ 23.1322. Warning, caution, and advisory lights.

* * * * *

(e) Effective under all probable cockpit lighting conditions.

Explanation: This proposal is addressed in conference proposal 438. It requires that the specific colors be consistent with change in brightness over the full range of ambient light conditions in the cockpit and that the luminance difference and/or color difference be sufficient to preclude confusion or ambiguity under all probable cockpit lighting conditions. Light color is not controlled by a lens color cathode ray tube (CRT) displays now being incorporated into airplanes. Cockpit lighting evaluations are required in § 23.1321 and clarification is needed in this section to assure compliance with these requirements.

Reference: Conference proposal 438.

68. Section 23.1329 is amended by redesignating paragraphs (b), (c), (d), (e), (f), and (g) as (c), (d), (e), (f), (g), and (h),

respectively; and adding a new paragraph (b) to read as follows:

§ 23.1329 Automatic pilot system.

* * * * *

(b) If the provisions of paragraph (a)(1) of this section are applied, the quick release (emergency) control must be located on the control wheel (both control wheels if the airplane can be operated from either pilot seat) on the side opposite the throttles, or on the stick control, such that it can be operated without moving the hand from its normal position on the control.

* * * * *

Explanation: This proposal would standardize the location of the quick release (emergency) control for autopilot systems. Standardization permits consistency of pilot responses in preventing hazardous airplane attitudes during autopilot malfunctions.

Conference proposal 443 recommended standardizing the location, but it did not specify the location. Comments at the conference indicated that such a proposal is open to various interpretations and would cause disagreement in the certification process. It was suggested that FAA should specify the location of the quick release control in this proposal. The location specified is consistent with the requirements for part 25 airplanes, except this proposal allows the control to also be located on a stick control.

Conference proposal 444 recommended installing an indicator for determining adequacy of pneumatic or suction source pressure that would affect autopilot function in any axis. Since there is limited production of autopilots that utilize a pneumatic pressure as the autopilot power source and future autopilots are not expected to use pneumatic power, the FAA plans no further action on conference proposal 444.

Reference: Conference proposal 443 and 444.

69. Section 23.1331 is revised to read as follows:

§ 23.1331 Instruments using a power source.

For each gyroscopic instrument the following apply:

(a) Each instrument must have a visual annunciator integral with or adjacent to the instrument to indicate when power is not adequate to sustain proper instrument performance. The power must be sensed at or near the point where it enters the instrument. For electric and vacuum/pressure instruments, the power is considered to be adequate when the voltage or the vacuum/pressure, respectively, is within approved limits.

(b) The installation and power supply systems must be designed so that—

(1) The failure of one instrument will not interfere with the proper supply of energy to the remaining instrument; and

(2) The failure of the energy supply from one source will not interfere with the proper supply of energy from any other source.

(c) There must be at least two independent sources of power (not driven by the same engine on multiengine airplanes), and a manual or an automatic means to select each power source.

Explanation: This proposal requires a visual annunciation to indicate when power for gyroscopic instruments is not adequate, and two independent sources of power for all airplanes. Requirements in current paragraphs (a)(1) and (a)(2) are being deleted because the general requirements of §§ 23.1301 and 23.1309 will adequately address these issues.

Conference proposals 445, 446, and 447 recommended a visual means to indicate the adequacy of the power being supplied to the gyroscopic instruments. It was reported, in many cases, that the pilot does not have adequate warning after instrument power source failure. Section 23.1331 contained a requirement that there must be a means to indicate the adequacy of the power being supplied to the instruments, but this requirement is not specific relative to location. Most low cost gyroscopic instruments do not have a warning flag and, in many cases, this power warning indicator has been located outside the normal pilot scan. Consequently, the pilot's first clue of power failure is that the airplane is either turning, climbing, descending, and so forth, without corresponding instrument indication. If the pilot recognized the failure immediately, the pilot would more readily recognize and disregard erroneous or misleading information and transition quickly to partial panel.

Conference proposals 445, 446, and 448 also recommended requirements for redundant gyroscopic instruments power sources and at least two independent sources of power for multiengine airplanes. Conference proposal 445 would promote standardization in the application of FAA regulations since new technology permits complex systems installed in part 25 airplanes to also be installed in part 23 airplanes. One commenter stated that sophisticated and complex systems may be installed in part 23 airplanes but it is incorrect to assume all new part 23 airplanes will have complex systems. Therefore, the regulations should have a distinction between them, or the price of small simple airplanes will be too high.

The FAA has concluded that the requirements of § 25.1331 are not appropriate to part 23 airplanes. Small Airplane Airworthiness Review Program Notice No. 5 contains a proposal to amend § 23.1309, which would be applicable for complex safety-critical systems, and proposed paragraph (c) will provide adequate power supply redundancy for other airplanes.

Conference proposals 446 and 448 would require redundant power sources for gyroscopic instruments in airplanes approved for night, known icing conditions, and day VFR conditions. Conference proposal 421 recommended amending § 23.1303 by requiring that the attitude and direction indicators on single-engine airplanes have a power source independent from the power source for the pneumatic deicing equipment, autopilot, or cabin pressurization system. The justification for this proposal was that single-engine airplanes do not have adequate gyroscopic instrument redundancy and, between 1978 and 1981, there were large numbers of vacuum pump failures. At the conference, considerable confustion existed relative to what was intended by proposal 421. The FAA concludes the intent was to require redundant power sources for gyroscopic instruments. Proposed paragraph (c) would require such redundancy.

Conference proposal 448 also recommended deleting paragraph (a)(1) and (a)(2) since these requirements are applicable to venturi systems. As previously stated, the FAA is proposing to delete paragraphs (a)(1) and (a)(2).

Reference: Conference proposal 421, 445, 446, 447, and 448.

§ 23.1337 [Amended.]

70. Section 23.1337 is amended in paragraphs (a)(1) and (a)(3) by inserting the words "and auxiliary power unit" after the word "powerplant" and in paragraph (b)(5) by removing the words "a small" and inserting the word "an".

Explanation: This proposal adds APU installation requirements and clarifies fuel quantity indicator requirements.

Conference proposal 449 recommended amending this section to include APU requirements for the reason that applications have been received for approval of auxiliary power unit installations in part 23 airplanes. These installations also need protection from the escape of flammable fluids. At the conference, the only commenter suggested it might be appropriate to place all auxiliary power unit requirements in a separate section rather than scattering them throughout the many different rule sections. In response, the FAA has further considered this issue and has concluded that, in an effort to maintain parallelism among the airworthiness standards, the auxiliary power unit requirements should be addressed where possible in sections with corresponding numbers in other airworthiness parts.

The proposed revision to paragraph (b)(5) will maintain compatibility with proposed changes to § 23.955(d).

Reference: Conference proposal 449.

71. Section 23.1351 is amended by revising paragraphs (c)(1) and (c)(3) and adding a new paragraph (g) to read as follows:

§ 23.1351 General.

* * * * *

(c) * * *

(1) Each generator must be able to deliver its continuous rated power, or such power as is limited by its regulation system;

* * * * *

(3) Means must be provided to disconnect each generator from the battery and other generators when enough reverse current exists that might damage the generator, or will adversely affect the airplane electrical system.

* * * * *

(g) It must be shown by analysis, tests, or both, that the airplane can be operated safely in VFR conditions, for a period of not less than five minutes, with the normal electrical power (electrical power sources excluding the battery and any other standby electrical sources) inoperative, with critical type fuel (from the standpoint of flameout and restart capability), and with the airplane initially at the maximum certificated altitude. Parts of the electrical system may remain on if—

(1) A single malfunction, including a wire bundle or junction box fire, cannot result in loss of the part turned off and the part turned on; and

(2) The parts turned on are electrically and mechanically isolated from the parts turned off.

Explanation: This proposal would allow a generator to be installed and operate below its continuous rating when it has a rating higher than necessary, allow methods other than reverse current cutouts for protecting against reverse current, and would require the airplane to operate safely for 5 minutes without normal electrical power.

Conference proposal 453 recommended revising paragraphs (c)(1) and (c)(3) essentially as proposed herein. The justification given is that the generator-rated output may be higher than required for the electrical loads of the airplane and, in such case, the electrical system (generator output) is limited by its regulation system. The consensus at the conference supported the objective of this conference proposal. The FAA agrees with the need for changing paragraph (c)(1) to clarify its intent and to revise paragraph (c)(3) to relieve the burden to install a specific type of reverse current control where more efficient and less costly controls are now available.

Conference proposal 456 recommended adding paragraph (g), essentially as proposed herein except the requirement would only be applicable for airplanes operated above 25,000 feet. The justification was that part 23 airplanes that operate at high altitudes above 25,000 feet depend upon electrical power for safe operation. Emergencies involving loss of normal electrical power at or above this altitude typically result in the loss of other systems, such as electric fuel pumps, pressurization system, warning system, navigation, communications, and instrumentation. The FAA developed special conditions for part 25 that initiated the requirement in this proposal and it was later adopted into part 25 by amendment 25-41, in 1977. Conference proposal 456 was essentially developed from the part 25 requirements except for the 25,000 foot applicability. When offered for comment at the conference, there were no objections on conference proposal 456. After further review, FAA has concluded that the proposal should not be limited to airplanes that operate above 25,000 feet since emergencies resulting in the loss of normal electrical power are critical for all airplanes. Five minutes is considered adequate time to cope with such an emergency so that pilot can operate the airplane safely and assess the reason for the loss of normal electrical power.

Conference proposal 452 recommended changing the phrase "essential for safe operation" to "essential to flight safety" for consistency in the regulations. A word search of the regulations indicated that there were other phrases such as "essential to safety of flight," and "essential to continued safe operation." All of these phrases have been interpreted to have the same meaning. Since the affected regulations have been administered effectively without significant problems, the FAA does not consider the recommended change to be beneficial.

Conference proposal 451 recommended a dual electrical power distribution system. At the conference, there was confusion as to its applicability and what would be an acceptable means of compliance. The FAA has addressed related issues in Notice 5 of the Small Airplane Airworthiness Review Program and is taking no further action on this conference proposal.

Conference proposal 454 recommended adding a voltmeter as an additional required instrument in paragraph (d) and conference proposal 455 recommended deleting the entire second sentence of § 23.1351(d). Conference commenters considered the ammeter to be more valuable than a voltmeter because an ammeter can better indicate the performance of the generator and the magnitude of the electrical loads. Voltage variations could be small when there are large variations in power or current. The FAA agrees and plans no further action on these two proposals.

Conference proposal 455a, relating to fire resistance of electrical equipment, was considered interpretive material and no further action will be taken in this notice.

Reference: Conference proposals 451, 452, 453, 454, 455a, and 456.

72. Section 23.1357 is amended by revising paragraphs (a)(1) and (e) to read as follows:

§ 23.1357 Circuit protective devices.

(a) * * *

(1) Main circuits of starter motors used during starting only; and

* * * * *

(e) For fuses identified as replaceable in flight—

(1) There must be one spare of each rating or 50 percent spare fuses of each rating, whichever is greater; and

(2) The spare fuse(s) must be readily accessible to any required pilot.

Explanation: The intent has historically been to protect the airplane from the hazards of all electrical faults. Paragraph (a)(1) exempted starting motor circuits because they did not have power applied, except during engine starting. It is proposed to clarify the intent of paragraph (a)(1). The existing rules of paragraph (e) require spare fuses for all electric circuits. This proposal would require spare fuses for fuses identified as replaceable in flight, which would be those required by paragraph (d) and any other fuses identified as replaceable in flight. This proposal would also require the fuses be readily accessible and available.

Conference proposal 460 recommended paragraph (e) be combined with paragraph (d), so the applicability of paragraph (e) would only be for essential circuits. At the conference, there was an objection to having more than one requirement in one paragraph and it was recommended that the requirements be in separate paragraphs as in this proposal. The requirement to have spare fuses for nonessential circuits, such as cigarette lighter, map light, and refreshment bar, are not necessary for safety. However, if they are identified as replaceable in flight, the available spare fuses for essential circuits are likely to be used to replace them. If spare fuses were used for nonessential circuits and such fuses were not allocated for in establishing the required number of spares, fuses may not be available for the essential circuit replacement.

Conference proposal 459 recommended revising paragraph (a)(2) to clarify that its applicability was for short lengths of wire. At the conference, this recommendation was opposed since there could be different interpretations of what is considered a short length of wire and since the existing rule was clear on this matter.

Reference: Conference proposals 459 and 460.

73. Section 23.1361 is amended by revising paragraphs (a) and (b) to read as follows:

§ 23.1361 Master switch arrangement.

(a) There must be a master switch arrangement to allow ready disconnection of all electric power sources from power distribution systems, except as provided in paragraph (b) of this section. The point of disconnection must be adjacent to the sources controlled by the switch arrangement. A separate switch may be incorporated into the arrangement for each separate power source provided the switch arrangement can be operated by one hand with a single movement.

(b) Load circuits may be connected so that they remain energized when the master switch is open, if the circuits are isolated, or physically shielded, to prevent their igniting flammable fluids or vapors that might be liberated by the leakage or rupture of any flammable fluid system; and—

(1) The circuits are required for continued operation of the engine; or

(2) The circuits are protected by circuit protective devices with a rating of five amperes or less adjacent to the electric power source.

(3) In addition, two or more circuits installed in accordance with the requirements of paragraph (b)(2) of this section must not be used to supply a load of more than five amperes.

* * * * *

Explanation: The proposal clarifies the master switch arrangement requirement and permits new generations of engines to operate with the master switch turned off, as is necessary to isolate hazardous electrical faults.

Subsequent to the receipt of the proposals submitted for the Part 23 Review, engine designs have been developed that depend on an electrical power source for normal ignition and/or fuel pressure. An electrical fault that makes it necessary to turn off the master switches must not cause unintentional disabling of such designed engines. However, the pilot must retain the capability to isolate all sources of electrical energy that might ignite flammable fluids that are likely to escape during a survivable crash landing.

When conference proposal 461 was discussed, a commenter specifically noted that he had no objections to the multiple circuits restriction in the proposal and supported that position. The commenter did express a concern that the proposal, "Load, circuits, such as cabin entry lights whose functions are needed prior to entering the cockpit," may unnecessarily limit those circuits to those functions that are needed before entering the cockpit. It was noted that there are other continuously energized circuits that do meet the "needed prior to entering the cockpit" definition in the proposal. A circuit for an electrical clock was cited as an example.

The FAA has reviewed the proposal and this discussion and agrees that while the proposed wordage was only intended to provide an example of the type of circuit that was permitted by this section, it could be interpreted as more restrictive than intended; therefore, this example language has not been included in this proposal. This action by FAA should not be interpreted as an endorsement to install an unlimited number of circuits that bypass the master switch. This provision was added to, and retained in, the requirements because it was recognized that there are a limited number of electrical functions that are needed when the master switch is in the position. The requirements of this section provide for the safe installation of these circuits. The five ampere load restriction of a new paragraph (b)(3) was added because the FAA was made aware of an installation in which this provision was being used to circumvent the master switch arrangements by using up to four five-ampere fuses to supply a 20 ampere circuit. This restrictive provision should make it clear that such installations are not permitted.

Reference: Conference proposal 461.

74. Section 23.1365 is amended by adding a new paragraph (c) to read as follows:

§ 23.1365 Electric cables and equipment.

* * * * *

(c) Main power cables (including generator cables) in the fuselage must be designed to allow a reasonable degree of deformation and stretching without failure and must—

(1) Be isolated from flammable fluid lines; or

(2) Be shrouded by means of electrically insulated flexible conduit, or equivalent, which is in addition to the normal cable insulation.

Explanation: This proposal provides crashworthiness standards for electrical cables. It would require that electrical cables be designed to allow a reasonable degree of deformation and stretching without failure and be isolated from flammable fluid lines or must be shrouded in insulated flexible conduit. Conference proposal 462 recommended substantially equivalent requirements. A conference commenter questioned whether this proposal is for a specification for the cable or an installation standard since this proposal is substantially equivalent to § 25.1359(c), which has been successfully administered for several years as an installation standard.

Reference: Conference proposal 462.

75. Section 23.1385 is amended in paragraph (c) by removing the phrase ", and must be approved"; by removing paragraph (d); and by redesignating paragraph (e) as paragraph (d); and by revising paragraph (b) to read as follows:

§ 23.1385 Position light system installation.

* * * * *

(b) *Left and right position lights.* Left and right position lights must consist of a red and a green light spaced laterally as far apart as practicable and installed on the airplane such that, with the airplane in the normal flying position, the red light is on the left side and the green light is on the right side.

* * * * *

Explanation: This proposal clarifies the location requirements for the position lights, deletes the requirement for a single circuit, and removes the redundant statement "must be approved". Conference proposal 464 recommended changing paragraph (b) so the location of position lights can be compatible with airplane configurations such as tandem wing, canards, and swept wings. The words "forward on the airplane" in paragraph (b) have been interpreted to mean the first 50 percent of the airplane length.

Conference proposal 465 recommended deleting paragraph (d) since it had been interpreted to prohibit multiple circuits from being installed. A consensus at the conference supported both of these recommendations.

The FAA has further studied these issues and concludes clarification is required and that the proposed requirements are substantively equivalent to the current rule.

Conference proposal 463 recommended that §§ 23.1385 up to 23.1395 and § 23.1401 be rewritten because these sections are too technical. There was no representative at the conference for this proposal to provide clarification or definite details needed. The proposal was not discussed and the FAA plans no further action on proposal 463.

Reference: Conference proposals 463, 464 and 465.

§ 23.1387 [Amended]

76. Section 23.1387 is amended in paragraph (a) by removing the words "forward and rear".

Explanation: Removal of the words "forward and rear" from paragraph (a) is necessary for compatibility with revised § 23.1385.

Reference: Proposal 75.

§ 23.1389 [Amended]

77. Section 23.1389 is amended in paragraph (b) by removing words "Forward and rear" from the heading, by changing the word "position" in the heading to read "Position", and by removing the words "forward and rear" from the first sentence; in paragraph (b)(3) by removing the word "forward" in the last sentence and inserting in its place the words "left and right".

Explanation: These changes are necessary for compatibility with revised § 23.1385.

Reference: Proposal 75.

§ 23.1391 [Amended]

78. Section 23.1391 is amended in the section heading by removing the words "forward and rear" and in the table by removing the words "(forward red and green)" and inserting in their place "(red and green)".

Explanation: These changes are necessary for compatibility with revised § 23.1385.

Reference: Proposal 75.

§ 23.1393 [Amended]

79. Section 23.1393 is amended in the section heading by removing the words "forward and rear".

Explanation: This change is necessary for compatibility with revised § 23.1385.

Reference: Proposal 75.

§ 23.1395 [Amended]

80. Section 23.1395 is amended in the section heading by removing the words "forward and rear".

Explanation: This change is necessary for compatibility with revised § 23.1385.

Reference: Proposal 75.

81. Section 23.1419 is revised to read as follows:

§ 23.1419 Ice protection.

If certification with ice protection provisions is desired, compliance with the requirements of this section and other applicable sections of this part must be shown:

(a) An analysis must be performed to establish, on the basis of the airplane's

operation needs, the adequacy of the ice protection system for the various components of the airplane. In addition, tests of the ice protection system must be conducted to demonstrate that the airplane is capable of operating safely in continuous maximum and intermittent maximum icing conditions, as described in appendix C of part 25 of this chapter. As used in this section, "Capable of operating safely," means that airplane performance, controllability, maneuverability, and stability must not be less than that required in part 23, subpart B.

(b) In addition to the analysis and physical evaluation prescribed in paragraph (a) of this section, the effectiveness of the ice protection system and its components must be shown by flight tests of the airplane or its components in measured natural atmospheric icing conditions and by one or more of the following tests, as found necessary to determine the adequacy of the ice protection system—

(1) Laboratory dry air or simulated icing tests, or a combination of both, of the components or models of the components.

(a) Flight dry air tests of the ice protection system as a whole, or its individual components.

(3) Flight test of the airplane or its components in measured simulated icing conditions.

(c) A means must be identified or provided for determining the formation of ice on the critical parts of the airplane. Adequate lighting must be provided for the use of this means during night operation. Also, when monitoring of the external surfaces of the airplane by the flight crew is required for operation of the ice protection equipment, external lighting must be provided that is adequate to enable the monitoring to be done at night. Any illumination that is used must be of a type that will not cause glare or reflection that would handicap crewmembers in the performance of their duties. The Airplane Flight Manual or other approved manual material must describe the means of determining ice formation and must contain information for the safe operation of the airplane in icing conditions.

Explanation: This proposal would continue the minimum requirements for airplane design that have been established by the rulemaking process as necessary for safe operations, would remain compatible with other ice protection provisions, would delete the methods of showing compliance by similarity of design, would provide specific test requirements, would clarify the requirement for information that must be provided to the pilot, and would add a reference for compliance with other applicable sections of part 23.

When an airplane is approved with ice protection provisions in accordance with § 23.1419, it is allowed to be routinely dispatched into icing conditions. The public using such airplanes are entitled to the same minimum level of safety as has been established for design of the airplane in other environments. Subpart B of this part does not differentiate levels of safety by type of operation or by the environment in which the airplane is operated. The proposed final sentence to paragraph (a) makes it clear that these requirements must be met by an airplane approved for icing flights.

When icing requirements were first introduced into part 23, the only sections of part 23 that were identified as directly related to § 23.1419 were §§ 23.929 and 23.1309. Subsequent to that action, part 23 has been amended by adding § 23.1416 and Notices 2 and 4 of the small Airplane Airworthiness Review Program contains a proposal for amending §§ 23.775 and § 23.1323 if an icing approval is desired. Because of these and other applicable requirements in part 23, the introductory statement of this section has been expanded to reference compliance with other requirements.

Conference proposal 467 recommended § 23.1419 be amended by replacing its requirements with substantively identical requirements to those in § 25.1419. The justification given was that normal and transport category airplanes must operate in about the same icing environment, but the normal category airplane is more likely to remain in icing conditions for longer periods of time because it may not have the performance capability to exit the icing enviornment as readily as transport category airplanes.

At the conference, commenters did not disagree with the justification, but opposed the recommendation because—

(1) Adverse accident statistics were not cited in the justification;

(2) They could not anticipate any higher quality of certification resulting from the new requirements;

(3) They considered the current requirements adequate;

(4) The proposed requirements would impose additional burdens, as some certification requirements could now be approved without testing; and

(5) Questions were being resolved in a new advisory circular on icing certification.

The FAA remains unconvinced that part 23 airplanes should have lesser icing certification requirements than other certificated aircarft. FAA and NTSB records include many accidents wherein icing is cited as a causal factor. The practice of certification by similarity of designs is considered inadequate for icing certifications because the effects on the airplane performance, handling, etc., cannot be predicted except by test. Therefore, the requirements in this proposal have been revised to identify testing that is more appropriate for the icing flight approval of an airplane.

Although it was not discussed at the conference, paragraph (c) of this proposal includes additional requirements for a means for determining the formation of ice on the critical parts of the airplane. This is necessary because it is not always possible for the crew to visually determine the formation of ice on critical parts of the airplane. The requirement for determining ice formation will provide a means for the pilot to determine when the ice protection equipment should be activated. The requirement for the Airplane Flight Manual to include information for safe operation of the airplane in icing conditions is more appropriate for inclusion in proposed paragraph (c).

Reference: Conference proposal 467.

82. Section 23.1431 is revised to read as follows:

§ 23.1431 Electronic equipment.

(a) In showing compliance with § 23.1309(b)(1) and (2) with respect to radio and electronic equipment and their installations, critical environmental conditions must be considered.

(b) Radio and electronic equipment, controls, and wiring must be installed so that operation of any unit or system of units will not adversely affect the simultaneous operation of any other radio or electronic unit, or system of units, required by this chapter.

Explanation: This proposal would include electronic equipment that is being installed in part 23 airplanes as well as radio equipment. When the existing regulation was adopted, radio equipment was the primary electronic equipment installed. For standardization in the application of FAA requirements, this proposal is consistent with § 25.1431(a) and (c). Section 23.1309(b)(1) and (2) that are referenced are the proposed regulations in Notice 5, Small Airplane Airworthiness Review Program.

83. Section 23.1435 is amended by revising paragraph (c) to read as follows:

§ 23.1435 Hydraulic systems.

* * * * *

(c) *Accumulators.* Hydraulic accumulators or pressurized reservoirs must not be installed on the engine side of any firewall unless—

(1) It is an integral part of an engine or propeller, or

(2) It is a nonpressurized reservoir and the total capacity of all such nonpressurized reservoirs is one quart or less.

Explanation. Conference proposal 469 recommended adding to § 23.1435(c) a requirement that propeller unfeathering accumulators be considered as an integral part of the propeller and small (1 quart max.) nonpressurized reservoirs be acceptable. Propeller unfeathering accumulators have been accepted as an integral part of a propeller. The conference discussion supported clarification of the requirement

and the allowance of some small accumulators, such as for the brake systems on single-engine airplanes. The FAA has further considered these issues and concludes such accumulators should be allowed provided their total capacity is limited to one quart or less.

Proposals 468 and 470 recommended that § 23.1435 be applicable only for hydraulic systems fed by pumps and a new § 23.1436 be added for hydraulic systems with no pumps. These proposals were not accepted since the existing § 23.1435 has been applicable for both types of hydraulic systems without any problems.

Reference: Conference proposals 468, 469, and 470.

84. Section 23.1441 is amended by revising paragraphs (a) and (d); and by adding a new paragraph (e) to read as follows:

§ 23.1441 Oxygen equipment and supply.

(a) If certification with supplemental oxygen equipment is requested, or the airplane is approved for operations at or above altitudes where oxygen is required to be used by the operating rules, oxygen equipment must be provided that meets the requirements of this section and §§ 23.1443 through 23.1449. Portable oxygen equipment may be used to meet the requirements of this part if the portable equipment is shown to comply with the applicable requirements, is identified in airplane type design, and its stowage provisions are found to be in compliance with the requirements of § 23.561.

* * * * *

(d) Each required flight crewmember must be provided with—

(1) Demand oxygen equipment if the airplane is to be certificated for operation above 25,000 feet.

(2) Pressure demand oxygen equipment if the airplane is to be certificated of operation above 40,000 feet.

(e) There must be a means, readily available to the crew in flight, to shut off the oxygen supply at the high pressure source. This shutoff requirement does not apply to chemical oxygen generators.

Explanation. This proposal clarifies the type design requirements in relation to the operating rules, requires installation of demand or pressure demand crewmember oxygen equipment predicated on the airplane's maximum certificated operating altitude, clarifies the requirements relative to portable equipment, and requires a means for crewmembers to shut off the oxygen supply at the source during flight.

Conference proposal 471 recommended requiring a means for the crewmembers to shut off the oxygen supply at the source. The justification given was that, as the result of recent service difficulty investigations, it was noted that some airplane oxygen system installations have been installed with a manual shutoff valve at the supply source, apparently to prevent system leakage during periods when it is not needed. A preflight procedure called for turning the system "on" if flight to an altitude requiring oxygen was anticipated. With the oxygen system shut off, oxygen was not readily available to the crew and passengers, if unexpected incidents of inflight depressurization occurred as the result of smoke in the cockpit, turbine failures, windshield cracking, etc. The need for oxygen supply shutoff was also made evident by several cockpit fires when escaping oxygen accelerated the fire. Fortunately, these fires occurred on the ground and caused no injuries.

While the explanation for this conference proposal cited rationale for readily available shutoff control of oxygen at the source, the actual proposal only addressed shutoff capability if there were a means for shutting off oxygen system pressure. At the conference, one commenter, noting this loophole, reminded conferees of its existence. The same commenter pointed out that the proposed requirement could not be applied to chemical oxygen generating systems. Another commenter, remarked that consideration should be given to requiring that the shutoff means be easily visible to the crewmembers without twisting or turning their bodies to see it. Accordingly, proposed paragraph (e) eliminates the ambiguity and provides an exception for chemical oxygen generators.

Conference proposal 471 also recommended revising § 23.1441 by requiring demand oxygen equipment above 20,000 feet and pressure demand oxygen equipment above 40,000 feet.

At the conference, one commenter, believing that the present requirements that allow continuous flow oxygen equipment for crewmembers and passengers are satisfactory, wanted a further explanation of why they were now considered inadequate. The commenter also wanted to know how previous oxygen system installations were approved. Another commenter questioned the 40,000 foot altitude requirement for pressure demand oxygen equipment because it was halfway up to a flight level. Still another commenter concurred with the proposed altitudes for demand and pressure demand oxygen equipment.

Oxygen requirements for part 23 airplanes were promulgated in 1970. At that time, few small airplanes were pressurized or even capable of operating at altitudes above 18,000 feet. In establishing standards that were simple as well as appropriate, no differentiation was made between crewmember and passenger oxygen requirements.

Prior to 1970, advisory material was available to provide an acceptable means for installing oxygen systems. (Advisory Circular AC 43.13–2, Acceptable Methods, Techniques, and Practices; Aircraft Alterations.)

More recently, airplane performance has improved so that some single-engine airplanes are certificated to 25,000 feet maximum operating altitude and some multiengine airplanes to more than 35,000 feet maximum operating altitude. The 40,000 foot altitude requirement for pressure demand equipment cannot be selected to match a flight level inasmuch as a person breathing 100 percent oxygen without pressure can only get the equivalent of breathing air at 12,000 feet.

As explained in Advisory Circular (AC) 91–8B, continuous flow systems provided adequate oxygen protection for the flight crew up to 25,000 feet and for passengers up to 40,000 feet. Above 40,000 feet, the pressure demand system is necessary. Pressure breathing is intended only for short periods to allow safe descent in emergencies.

In response to conference comments and questions, the FAA offers the following information:

Barometric pressure decreases as altitude increases, causing a reduced oxygen partial pressure in inspired air. At increased altitudes the amount of oxygen reaching body tissues is reduced, resulting in a condition known as hypoxia. Pilot performance is degraded when hypoxia impairs functions of the brain and other organs. Although night vision deterioration is noticeable at an altitude of 5,000 feet, other significant hypoxic effects usually do not occur in normal healthy pilots in unpressurized airplanes below 12,000 feet. From 12,000 to 15,000 feet altitude, in addition to impairment of judgment, memory, and alertness, headache, drowsiness and either a sense of well-being or irritability may occur. At altitudes above 15,000 feet, peripheral vision is lost. The ability to take corrective action is lost in 5 to 12 minutes at 20,000 feet, followed soon thereafter by unconsciousness. In order to maintain oxygen partial pressure in the lungs at a safe level, it is necessary to increase the concentration of oxygen in the inspired air by adding oxygen.

The three types of oxygen systems used in civil aviation are the continuous-flow, demand, and pressure demand systems. The continuous-flow system, as the name implies, provides a constant flow of oxygen to the mask. The flow rate may be manually adjusted or automatically controlled to increase flow with an increase in cabin altitude. The most common continuous-flow mask installed in part 23 airplanes due to its low cost and oxygen economy is the open port dilution rebreathing mask. This mask incorporates a rebreather bag to collect the first portion of the exhaled gases of an exhalation that are high in oxygen content so that these oxygen rich gases can be reinhaled through an orifice in the mask during the next inspiration and dilutes the oxygen flowing into the mask. Unfortunately, such masks cannot automatically provide more oxygen to a pilot who needs an increase because of emotional stress or physical activity.

The demand system delivers a mixture of oxygen and air to the mask only when the user inhales. Up to an altitude of 36,000 feet, it automatically increases the percentage of oxygen in the mixture with increasing altitude. The demand system can provide the user with a mixture of oxygen and air that produces the same effect as breathing air at an altitude of 5,000 feet. The mixture becomes 100 percent oxygen at an altitude of 36,000 feet. At an altitude of 39,000 feet, breathing

100 percent oxygen produces the same effect as breathing air at 10,000 feet.

The pressure demand system delivers 100 percent oxygen to the mask at a positive pressure that, in effect, supercharges the lungs due to the differential pressure between the mask and surrounding barometric pressure. While the pressure demand system can extend the effect of breathing air at an altitude of 10,000 feet to slightly above an airplane altitude of 40,000 feet, there is an increased effort in breathing. Under normal conditions the body only exerts an effort during inhalation, whereas exhalation occurs when the breathing muscles relax. The reverse is true during pressure breathing where exhalation requires effort and inhalation occurs when the breathing muscles relax. For these reasons, pressure breathing systems are appropriate only for short term emergency use in pressurized airplanes. Neither continuous flow nor demand oxygen systems are suitable in unpressurized airplanes for flight above 40,000 feet.

Performance of the various types of oxygen systems is based upon a normal, healthy individual wearing a mask with a good mask-to-face seal. This does not take into account other factors such as degree of training, physical activity, duration of exposure, general health or altitude tolerance of the user. Since all conditions may not be ideal and safety of the flight is dependent upon alert crewmembers, it is appropriate to require demand oxygen if the airplane is to be certificated for operation above 25,000 feet and pressure demand oxygen equipment if the airplane is to be certificated for operation above 40,000 feet.

Reference: Conference proposal No. 471.

85. Section 23.1443 is revised to read as follows:

§ 23.1443 Minimum mass flow of supplemental oxygen.

(a) If continuous flow oxygen equipment is installed, an applicant must show compliance with the requirements of either paragraphs (a)(1) and (a)(2) or paragraph (a)(3) of this section.

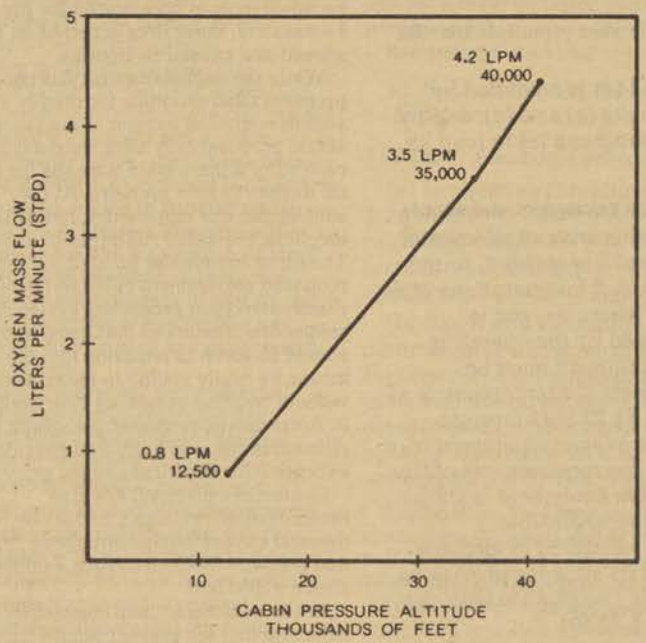
(1) For each passenger, the minimum mass flow of supplemental oxygen required at various cabin pressure altitudes may not be less than the flow required to maintain, during inspiration and while using the oxygen equipment (including masks) provided, the following mean tracheal oxygen partial pressures:

(i) At cabin pressure altitudes above 10,000 feet up to and including 18,500 feet, a mean tracheal oxygen partial pressure of 100 mm. Hg when breathing 15 liters per minute, Body Temperature, Pressure, Saturated (BTPS) and with a tidal volume of 700 cc. with a constant time interval between respirations.

(ii) At cabin pressure altitudes above 18,500 feet up to and including 40,000 feet, a mean tracheal oxygen partial pressure of 83.8 mm. Hg when breathing 30 liters per minute, BTPS, and with a tidal volume of 1,100 cc. with a constant time interval between respirations.

(2) For each flight crewmember, the minimum mass flow may not be less than the flow required to maintain, during inspiration, a mean tracheal oxygen partial pressure of 149 mm. Hg when breathing 15 liters per minute, BTPS, and with a maximum tidal volume of 700 cc. with a constant time interval between respirations.

(3) The minimum mass flow of supplemental oxygen supplied for each user must be at a rate not less than that shown in the following figure for each altitude up to and including the maximum operating altitude of the airplane.



(b) If demand equipment is installed for use by flight crewmembers, the minimum mass flow of supplemental oxygen required for each crewmember may not be less than the flow required to maintain, during inspiration, a mean tracheal oxygen partial pressure of 122 mm. Hg up to and including a cabin pressure altitude of 35,000 feet, and 95 percent oxygen between cabin pressure altitudes of 35,000 and 40,000 feet, when breathing 20 liters per minute BTPS. In addition, there must be means to allow the crew to use undiluted oxygen at their discretion.

(c) If first-aid oxygen equipment is installed, the minimum mass flow of oxygen to each user may not be less than 4 liters per minute, STPD. However, there may be a means to decrease this flow to not less than 2 liters per minute, STPD, at any cabin altitude. The quantity of oxygen required is based upon an average flow rate of 3 liters per minute per person for whom first-aid oxygen is required.

(d) As used in this section:

(1) BTPS means Body Temperature, and Pressure, Saturated (which is, 37° C, and the ambient pressure to which the body is exposed, minus 47 mm. Hg, which is the tracheal pressure displaced by water vapor pressure when the breathed air becomes saturated with water vapor at 37° C).

(2) STPD means Standard, Temperature, and Pressure, Dry (which is, 0° C at 760 mm. Hg with no water vapor).

Explanation: This proposal modifies the oxygen flow rates for small airplanes. These new requirements are needed for current and future airplanes that will be certificated to higher altitudes where oxygen is required.

Conference proposal 472 recommended revising § 23.1443 by designating the present paragraph as paragraph (a) and adding a new paragraph (b) to read essentially the same as § 25.1443(b). The justification given was that "The oxygen flow rate requirements of parts 23 and 25 are different. However, both regulations provide requirements needed to ensure continuous flow rates up to cabin pressure altitudes of 40,000 feet. Proposed § 23.1443 is a combination of these requirements. Proposed § 23.1443(a) contains current § 23.1443 with regard to continuous

flow requirements, and § 23.1443(b) is derived from § 25.1443 for demand system requirements. The language of the recommended change would allow § 23.1443 to cover both continuous flow oxygen and demand systems without interpretation from part 25."

When presented for comment at the conference, the proponent of proposal 472 explained that the oxygen requirements for parts 23 and 25 are different and this proposal would make them similar. This proposal would allow § 23.1443 to cover both continuous flow oxygen systems and demand oxygen systems without bringing in an interpretation of part 25, as has been required in the past.

Conference proposal 473 recommended revising § 23.1443 essentially as shown in this proposal since the oxygen flow rate requirements of parts 23 and 25 are different. However, both regulations provide requirements needed to ensure continuous flow rates up to cabin pressure altitudes of 40,000 feet. Proposed § 23.1443 is a combination of these requirements. Sections 23.1443 (a)(1) and (a)(2) contain the continuous flow requirements of part 25 and allow the applicant to comply with those requirements or with paragraph (a)(3), which is the current continuous flow requirement of part 23. Demonstrating compliance with proposed § 23.1443(a)(3) is easier, but results in a larger volume of oxygen and more weight. Demonstrating compliance with §§ 23.1443 (a)(1) and (a)(2) is harder, but results in a lesser volume of oxygen. By allowing the applicant to choose either method of compliance, this requirement permits freedom of design.

When presented for comment at the conference, the FAA confirmed that this conference proposal would allow alternatives of continuous flow oxygen equipment or demand oxygen equipment. With a good face-fitting mask, less oxygen will be used with a demand system than with a continuous flow system. Studies on altitude sickness and the impairment of ability to function on continuous flow equipment at altitudes above 25,000 feet leads the FAA to reconsider this issue, especially for flight crews.

Proposed paragraph (c) provides the flow rate requirements for first-aid oxygen equipment if installed, but does not require its installation. These requirements are identical to the first-aid oxygen flow rate requirements in part 25. With the recent addition on commuter category airplanes in part 23, first-aid oxygen equipment is more likely to be installed in part 23 airplanes.

Proposed paragraph (d) is clarifying by providing definitions of the term "BTPS" and "STPD" as used in this section.

Post conference review of these comments and the oxygen requirements of parts 91, 121, and 135 led to the conclusion that (1) adding the equivalent of the part 25 oxygen requirements to part 23 will provide adequate protection for both flight crew and passengers; and (2) that crewmembers should have demand oxygen equipment for operations above 25,000 feet.

Reference: Conference proposals 472 and 473.

86. Part 23 is amended by adding a new § 23.1445 to read as follows:

§ 23.1445 Oxygen distribution system.

(a) Except for flexible lines from oxygen outlets to the dispensing units, or where shown to be otherwise suitable to the installation, nonmetallic tubing must not be used for any oxygen line that is normally pressurized during flight.

(b) Nonmetallic oxygen distribution lines must not be routed where they may be subjected to elevated temperatures, electrical arcing, and released flammable fluids that might result from any probable failure.

Explanation: This proposal will establish standards for oxygen distribution systems not heretofore required. These requirements will prevent installation of plastic hoses in pressurized oxygen systems.

Conference proposal 474 recommended adopting equipment standards for oxygen systems essentially the same as proposed here. The justification given was that several accidents have occurred in airplanes where nylon tubing was used in an oxygen system pressurized to 70 psi. Because oxygen can support vigorous combustion, oxygen system installations warrant special attention in certification programs.

When presented for comment at the conference, the two commenters agreed that pressurized plastic tubing is inappropriate for oxygen system but did not completely agree with the proposal because they believed the rules should not specifically preclude all nonmetallic tubing. Some composite airplanes may need nonmetallic oxygen lines for lightning strike protection. In view of these comments, a phrase that allows a showing of suitability to the installation was added to the proposal.

Reference: Conference proposal 474.

87. Section 23.1447 is amended by revising paragraph (e) to read as follows:

§ 23.1447 Equipment standards for oxygen dispensing units

* * * * *

(e) If certification for operation above 30,000 feet is requested, the dispensing units must meet the following requirements:

(1) The dispensing units for passengers must be automatically presented to each occupant before the cabin pressure altitude exceeds 15,000 feet.

(2) The dispensing units for crewmembers must be automatically presented to each crewmember before the cabin pressure altitude exceeds 15,000 feet, or the units must be of the quick-donning type, connected to an oxygen supply terminal that is immediately available to crewmembers at their station.

* * * * *

Explanation: This proposal would add presentation requirements for the demand oxygen equipment required by § 23.1441(d) and allow the option of quick-donning type oxygen dispensing units.

Conference proposal 475 recommended essentially the same proposal as presented here. When presented for comment at the conference, the commenters agreed some changes were needed but did not agree on what should be done. The FAA agreed to reconsider the entire oxygen rules package. Post conference review of these comments and the proposals and other technical data has led to the set of proposals herein. These proposals would add oxygen system requirements similar to part 25 and also allow some alternatives under certain conditions.

Reference: Conference proposal 475.

88. Part 23 is amended by adding a new appendix H to read as follows:

Appendix H to Part 23—Installation of an automatic power reserve (APR) system

H23.1, *General.*

(a) This appendix specifies requirements for installation of an APR engine power control system that automatically advances power or thrust on the operating engine(s) in the event any engine fails during takeoff.

(b) With the APR system and associated systems functioning normally, all applicable requirements (except as provided in this appendix) must be met without requiring any action by the crew to increase power or thrust.

H23.2, *Definitions.*

(a) "Automatic power reserve system" means the entire automatic system used only during takeoff, including all devices both mechanical and electrical that sense engine failure, transmit signals, actuate fuel controls or power levers on operating engines, including power sources, to achieve the scheduled power increase and furnish cockpit information on system operation.

(b) "Selected takeoff power", notwithstanding the definition of "Takeoff Power" in part 1 of the Federal Aviation Regulations, means the power obtained from each initial power setting approved for takeoff.

(c) "Critical Time Interval", as illustrated in figure H1, means that period starting at V_1 minus one second and ending at the intersection of the engine and APR failure flight path line with the minimum performance all engine flight path line. The engine and APR failure flight path line intersects the one-engine-inoperative flight path line at 400 feet above the takeoff surface. The engine and APR failure flight path is based on the airplane's performance and must have a positive gradient of at least 0.5 percent at 400 feet above the takeoff surface.

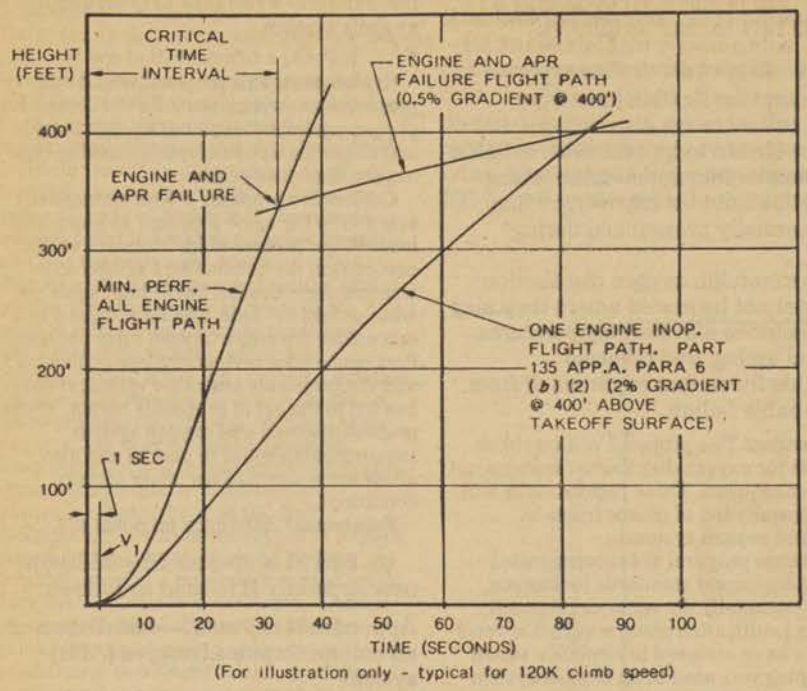


Figure H1.—Critical Time Interval Illustration.

H23.3, *Reliability and performance requirements.*

(a) It must be shown that, during the critical time interval, an APR failure that increases or does not affect power on either engine will not create a hazard to the airplane, or it must be shown that such failures are improbable.

(b) It must be shown that, during the critical time interval, there are no failure modes of the APR system that would result in a failure that will decrease the power on either engine or it must be shown that such failures are extremely improbable.

(c) It must be shown that, during the critical time interval, there will be no failure of the APR system in combination with an engine failure or it must be shown that such failures are extremely improbable.

(d) All applicable performance requirements must be met with an engine failure occurring at the most critical point during takeoff with the APR system functioning normally.

H23.4, *Power setting.*

The selected takeoff power set on each engine at the beginning of the takeoff roll may not be less than—

(a) The power necessary to attain, at V_1, 90 percent of the maximum takeoff power approved for the airplane for the existing conditions;

(b) That required to permit normal operation of all safety-related systems and equipment that are dependent upon engine power or power lever position; and

(c) That shown to be free of hazardous engine response characteristics when power is advanced from the selected takeoff power level to the maximum approved takeoff power.

H23.5, *Powerplant controls—general.*

(a) In addition to the requirements of § 23.1141 of this part, no single failure or malfunction (or probable combination thereof) of the APR, including associated systems, may cause the failure of any powerplant function necessary for safety.

(b) The APR must be designed to—

(1) Provide a means to verify to the flight crew before takeoff that the APR is in an operating condition to perform its intended function;

(2) Automatically advance power on the operating engines following an engine failure during takeoff to achieve the maximum attainable takeoff power without exceeding engine operating limits;

(3) Prevent deactivation of the APR by manual adjustment of the power levers following an engine failure;

(4) Provide a means for the flight crew to deactivate the automatic function. This means must be designed to prevent inadvertent deactivation; and

(5) Allow normal manual decrease or increase in power up to the maximum takeoff power approved for the airplane under the existing conditions through the use of power levers, as stated in § 23.1141(c) of this part, except as provided under paragraph H23.5(c) of this appendix.

(c) For airplanes equipped with limiters that automatically prevent engine operating limits from being exceeded, other means may be used to increase the maximum level of power controlled by the power levers in the event of an APR failure. The means must be located on or forward of the power levers, must be easily identified and operated under all operating conditions by single action of any pilot with the hand that is normally used to actuate the power levers, and must meet the requirements of § 23.777(a), (b), and (c) of this part.

H23.6, *Powerplant instruments.*

In addition to the requirements of § 23.1305 of this part:

(a) A means must be provided to indicate when the APR is in the armed or ready condition.

(b) If the inherent flight characteristics of the airplane do not provide warning that an engine has failed, a warning system independent of the APR must be provided to give the pilot a clear warning of any engine failure during takeoff.

(c) Following an engine failure at V_1 or above, there must be means for the crew to readily and quickly verify that the APR has operated satisfactorily.

Explanation: This proposal incorporates the additional requirements needed in § 23.904 for approval of an automatic system designed to increase power or thrust on the remaining operating engine(s) if an engine loses power on takeoff. This proposal was developed from special conditions since part 23 does not contain airworthiness standards for APR systems.

Conference proposal 319 recommended incorporated essentially the same proposal as presented here with the justification that small airplane manufacturers are currently installing APR systems and requesting certification. One conference commenter opposed adoption of these requirements and presented a list of requirements as an alternative. This alternate list was similar to the alternate special conditions this commenter offered, prior to the conference, in response to the Notice of Proposed Special Conditions published in the **Federal Register** (49 FR 35123, September 6, 1984).

The conference discussion provided no additional information to that previously offered in comment to the cited notice of proposed special conditions. Those comments to the cited notice are on public record and have been discussed and dispositioned in the Adoption of Final Special Conditions published in the **Federal Register** (50 FR 5369, February 8, 1985).

This proposal would add a new § 23.904 plus a new appendix H to this part and would maintain parallelism with similar requirements in part 25 of this chapter.

Reference: Conference proposal 319, cited special conditions.

Issued in Washington, DC, on September 17, 1990.

David W. Ostrowski,

Acting Director, Aircraft Certification Service.

[FR Doc. 90-23210 Filed 10-2-90; 8:45 am]

BILLING CODE 4910-13-M

federal register

Wednesday
October 3, 1990

Part IV

Department of Education

Projects With Industry; Final Funding Priorities and Applications for New Awards for Fiscal Year 1991; Notice

DEPARTMENT OF EDUCATION

Rehabilitation Services Administration

Projects With Industry; Final Funding Priorities for Fiscal Year 1991

AGENCY: Department of Education.

ACTION: Notice of Final Funding Priorities for Fiscal Year 1991.

SUMMARY: The Secretary announces final funding priorities for fiscal year 1991 for service activities to be supported under the Projects With Industry (PWI) program of the Rehabilitation Services Administration (RSA).

EFFECTIVE DATE: These final priorities take effect either 45 days after publication in the Federal Register or later if the Congress takes certain adjournments. If you want to know the effective date of these final priorities, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Pamela Martin, Office of Developmental Programs, Rehabilitation Services Administration, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3411) Washington;, DC 20202–2740. Telephone (202) 732–5829.

SUPPLEMENTARY INFORMATION: Grants under the Projects With Industry program are authorized by title VI, section 621 of the Rehabilitation Act of 1973, as amended. The purpose of this program is to expand job opportunities in the competitive labor market for individuals with handicaps.

Eligible Applicants

Individual employers, designated State units, other entities such as nonprofit organizations, trade associations, labor unions, and profit-making organizations are eligible applicants under this program.

On May 24, 1990, the Secretary published a notice of proposed priorities for this program in the Federal Register (55 FR 21506). Based upon comments received from the public in response to these proposed priorities, the following changes have been made.

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priorities, 15 parties submitted comments. One of the letters of comment was completely favorable and did not suggest any changes to the proposed priorities. The remaining 14 commenters suggested certain changes. An analysis of the substantive comments and the Secretary's responses are summarized below:

General Comments—Comments Applying to More Than One Priority

Comments: One respondent recommended that the phrase "individuals with severe and other handicaps" contained in several of the priorities be replaced with a more restrictive phrase "individuals with severe handicaps" in order to preclude PWI projects from using scarce resources to serve some individuals who are not severely handicapped and in order to reflect the emphasis in the Title I Vocational Rehabilitation Services Program on expanding and improving services to individuals with severe handicaps.

Discussion: Section 621(a)(1) of the Rehabilitation Act states that the purpose of the PWI program is to promote opportunities for competitive employment of "individuals with handicaps", a broader term that includes individuals with severe handicaps. The effect of adopting in the priorities the more limiting language suggested by this commenter would be to restrict PWI services to just the severely handicapped in contravention of the statute. However, the PWI evaluation standards provide that in selecting persons to receive services, projects must give priority to individuals with severe disabilities. This priority is implemented in the PWI compliance indicators, which establish minimum performance levels for projects in the areas of serving and placing adequate numbers of individuals with severe disabilities.

Changes: None.

Comments: Two respondents recommended the addition of a priority for projects that involve labor unions.

Discussion: While the Secretary fully recognizes the substantial contributions provided by unions as a result of their participation in the PWI program, the Secretary has determined that it would be inappropriate to single out and establish a priority for projects involving unions without establishing priorities for each of the many other entities eligible for support under the PWI program. Moreover, as an eligible grantee, unions can apply for support under any of the priorities.

Changes: None.

Comments: Several respondents recommended the addition of a priority for projects providing technical assistance to business, labor, or service providers. These commenters cited the pending passage of the Americans with Disabilities Act as a reason for the need to include a technical assistance priority and referred also to the authority under section 621(g) of the Rehabilitation Act for the Commissioner of RSA to provide technical assistance to PWI grantees and potential PWI grantees to facilitate the development of relationships with private industry and labor.

Discussion: The Secretary has determined that it would be premature to establish a priority under the PWI program for the provision of technical assistance to employers and businesses prior to the commencement of the development of implementing regulations for the Americans with Disabilities Act. At that time, the various Federal agencies that are involved in administering the Act will have an opportunity to determine the extent of business and industry technical assistance needs and to develop plans and strategies for meeting these needs, including, if appropriate, the development of funding priorities under such programs as PWI. The publication of these final priorities for fiscal year 1991 does not preclude the Department from developing additional priorities to meet these technical assistance needs at a later time.

The Rehabilitation Services Administration is currently conducting on-site compliance reviews and providing technical assistance to PWI grantees. It is expected that one-third of all grantees in existence in 1987 will receive on-site compliance reviews by the end of fiscal year 1991. Thereafter, at least 15 percent of all grantees will receive annual on-site compliance reviews. The Secretary considers that the review and technical assistance now being provided by the Rehabilitation Services Administration adequately meets the current needs of the PWI program and the intent of the technical assistance provision in section 621(g) of the Rehabilitation Act. Further, many of the current PWI grantees provide technical assistance to businesses and industries as part of their on-going project activities.

Changes: None.

Comments: One respondent recommended that a non-priority category be established in order to permit applicants to submit proposals that do not meet any of the priorities.

Discussion: Regulations in 34 CFR 75.105 do not require publication of a non-priority category under these priorities. Instead, the Department simply publishes an application notice in the Federal Register announcing the availability of funds to support projects that do not meet any of the priorities selected for funding under the application notice.

Changes: None.

Comments: One commenter suggested that priorities 4, 5, 6, and 7 include language that allows for national projects or projects that have the potential for broad or national replication.

Discussion: Since priorities 4, 5, 6, and 7 do not require any particular geographical scope, applicants under these priorities are free to propose projects of their own geographical design, whether that be national, local, statewide, or regional. Thus, these priorities do not require amendment to permit national projects.

Changes: None.

Comments: One respondent stated that the seven priorities are not mutually exclusive and therefore an applicant could submit a proposal that would meet more than one priority. This respondent believed this might create confusion in assigning the application to a particular priority or might require the application to be reviewed separately under several priorities. This respondent felt, therefore, that the priorities should be changed to address this concern.

Discussion: The Secretary believes that the seven priorities as proposed address the areas of greatest programmatic need in fiscal year 1991 and offer the best mix of geographical and target group priorities to ensure continuation of balanced funding under the PWI program. The Secretary agrees that some applications might be responsive to more than one priority. In those instances, an applicant can choose to have its application reviewed under more than one priority, but the application, of course, could only be funded once.

Changes: The application package will inform applicants that an applicant can choose to have its application reviewed under more than one priority by submitting separate applications for each applicable priority.

Comments: One respondent stated that there is insufficient documentation and evidence to justify absolute preference for priorities 4, 5, 6, and 7.

Discussion: The PWI program is currently supporting projects that focus on the needs addressed by these priorities. The Secretary believes it is essential to continue support of these types of projects in order to assure a balanced PWI program.

Changes: None.

Comments: One respondent fully supported priorities 5, 6, and 7, but expressed concern that these priorities may take away some of the resources necessary for continuation of the basic types of projects now funded by the PWI program.

Discussion: A number of the currently funded PWI projects support disability populations targeted by priorities 5, 6, and 7. Thus, program funds set aside for these priorities will support continuation of these types of projects, but not to the detriment of other types of existing PWI projects that may be recommended for new funding in fiscal year 1991. The Secretary considers priorities 5, 6, and 7 to be among the areas of greatest need and appropriate for inclusion in the funding plans for this program in fiscal year 1991. The Secretary will announce in the notice inviting applications the amount of funding to be set aside for each of the seven priorities to ensure a balanced PWI program.

Changes: None.

Comments: One respondent suggested that absolute preference should be given to those applicants proposing to establish the Business Advisory Council (BAC) required by statute.

Discussion: Section 621(a)(2)(E) of the Rehabilitation Act requires that all PWI projects provide for business advisory councils, composed of representatives of private industry, business concerns, and organized labor, which will identify available jobs within the community and prescribe appropriate training programs. Since the establishment of a Business Advisory Council is a statutory requirement, it is unnecessary to specifically include it in any of the priorities.

Changes: None.

Comments: Several respondents cited the need to include in the priorities an explanation of the requirement in section 621(h)(3) of the Act that "past performance" be considered in making new grant awards in fiscal year 1991 and subsequent fiscal years. One of these respondents further recommended that points be assigned for consideration by peer reviewers and RSA staff.

Discussion: The priority notice contains a statement that funding of particular projects depends on availability of funds, the nature of the final priorities, and the quality of applications received. In addition to these considerations, a number of other requirements contained in the Education Department General Administrative Regulations, section 621 of the Rehabilitation Act, and Projects With Industry program regulations in 34 CFR 369 and 379 govern application requirements and applicant eligibility and establish the process to be used in selecting applications for new awards. The Secretary does not consider the "prior performance" provision suggested by the respondents for inclusion in the priorities to be of any greater importance than the geographical distribution provision in 34 CFR 379.31(a) or any of the many other requirements applicable to new grants awarded under the Projects With Industry program. Those requirements are referenced in the application notice or are included in the application package provided to all prospective applicants. Accordingly, the Secretary has determined that it is not necessary to include a discussion of the "prior performance" provision in this priority announcement.

Regarding the respondent's recommendation that, in assessing past performance, points be assigned for consideration by peer reviewers and RSA, program regulations in 34 CFR 379.31(b) that implement the past performance provision do not provide for the assignment of points. These regulations make clear that past performance is just one of the additional factors the Secretary considers in making final award decisions after applications have been ranked in accordance with program selection criteria.

Changes: None.

Comments: One respondent recommended that the phrase "high demand occupations" be stricken wherever it occurs (priorities 1, 2, 3, and 6) and be replaced with the phrase "occupations consistent with the capabilities and abilities of project participants." The respondent pointed out that a significant number of high demand occupations do not meet the needs of persons with severe disabilities. Another respondent also questioned use of the phrase "high demand occupations" under priority 6.

Discussion: The Secretary agrees that the phrase "high demand occupations" is too restrictive. The intent was to ensure that training and other services are directed toward occupations that meet the labor needs of the geographic area proposed to be served and offer reasonable expectations of stable employment.

However, the Secretary has determined that it is not necessary to add the suggested phrase "occupations consistent with the capabilities and abilities of project participants." All individuals served by projects funded under any of these seven priorities are expected to be placed in appropriate occupations.

Changes: In priorities 1, 2, 3, and 6, the phrase "high demand occupations" is deleted and language substituted that requires training and placement in occupations that reflect current and future employment trends and labor

market needs of the geographic area proposed to be served.

Comments: Several respondents suggested that RSA should wait until the Rehabilitation Act is reauthorized by the Congress before setting PWI priorities for fiscal year 1992. These respondents noted that possible legislative changes in the PWI program could materially impact upon the 1992 priorities.

Discussion: The Secretary agrees, in light of the reauthorization of the Rehabilitation Act in fiscal year 1991, that it would be premature at this time to publish priorities for fiscal year 1992 also.

Changes: The final priorities have been changed to apply to new awards in fiscal year 1991 only.

Comments: One respondent suggested that eligible applicants who do not respond to priorities 4, 5, 6, or 7 should be permitted to submit a proposal that has merit as an innovative or unique project and advances the purposes of section 621 of the Act by serving a severely disabled population requiring services, an unserved industry, or attempts an untried technique, methodology, or service program.

Discussion: Applicants are not required to respond to priorities 4, 5, 6, or 7. Instead, they may respond to priorities 1, 2, or 3, which are sufficiently broad to allow a wide variety of proposed projects including the areas cited by the respondent.

Changes: None.

Comments: One response from a PWI project Business Advisory Council expressed concern that the priorities suggest an emphasis on traditional group training for one particular job within one particular company and recommended that this training (1) respond to the changing marketplace with more focus on generic transferable skills, (2) not require placement at the training site, (3) permit individual choice of career opportunities, (4) permit placement services for those who already have a chosen career field, (5) not encourage isolation of the disabled, (6) not duplicate existing community training programs, and (7) reflect private sector training methodologies. The respondent suggested certain changes in the wording of priorities 1, 2, 3, and 4 consistent with these recommendations.

Discussion: The Secretary believes that the revision of priorities 1, 2, 3, and 6 to require training based on the labor market needs of the geographic area proposed to be served by the project, as previously discussed, adequately addresses the respondent's first concern that training be flexible and relevant.

With respect to the respondent's second concern that the priorities require job placement at the training site, the Secretary notes that only priority 4 focuses on job skills training at actual job sites. This priority has been revised to specify an expectation that placement will occur at the training site, but not to absolutely require it. Thus, placements at locations other than the training site are permitted under priority 4.

The Secretary believes that the respondent's concerns about whether the priorities permit individual choice of career opportunities and permit placement services for those project participants who have a chosen career field and thus do not need job skills training are addressed in program regulations. Section 379.10 of the regulations specifies the full range of services a project must provide, as appropriate, to the individuals it serves. Among those services are individualized vocational assessments, job development and modification, and placement services. Projects are not required to provide to each individual with handicaps all project services, but only those services that are needed to achieve a competitive job placement.

The respondent's remaining concerns relate to the possible isolation of project trainees, the use of private sector training methodologies, and nonduplication of existing community training programs. The Secretary notes that program evaluation criteria in 34 CFR 379.30 (g) and (h) assess the extent to which projects coordinate with other community service agencies and whether projects propose service delivery approaches that are innovative. The Secretary believes that this kind of application information will help ensure that funded projects will not duplicate existing community training programs. The Secretary also believes that, whenever possible, project training must be integrated with existing skills training provided by business or industry. The Secretary does not believe that these priorities would result in isolation of project trainees.

Changes: Priority 4 has been revised to permit placement at sites other than the training site and to require, to the extent possible, that training provided to individuals with handicaps be integrated with existing training programs.

Comments Specific to Individual Priorities

Priorities 1, 2, and 3

Comments: One commenter stated that the unintended effect of priority 3 was to eliminate the possibility of multi-State or regional PWIs and recommended that all three of the priorities be stricken. Another commenter stated that priority 3 allows regional projects, but the priority is entitled "State Projects"; clarification was requested.

Discussion: Priority 3 clearly covers multi-State (including regional) projects. The Secretary agrees, however, that the title of this priority is misleading and should be changed since it suggests a narrower, single-State geographical focus. The Secretary believes these three geographical priorities are important and should be retained because they afford applicants maximum flexibility in project design yet promote a balanced program of local, State and multi-State, and national projects.

Changes: The title for priorities 1, 2, and 3 has been changed to national, local, or State and multi-State projects.

Comments: One respondent stated that the services listed under priorities 1, 2, and 3 are statutory requirements that should be included under all of the priorities. This respondent stated further that all projects must create and expand job opportunities for individuals with handicaps by providing appropriate job placement services, training for competitive employment, supportive services, modification of jobs, distribution of aids, appliances and adapted equipment, and modification of employer facilities or equipment. The respondent also stated that the criteria should emphasize that one or more of these services is required to qualify for awards under the PWI program and that absolute preference is given to those applicants providing for a business advisory council. Another respondent recommended the inclusion of job modification, worksite modification, and use of assistive technology in each priority. Two other respondents recommended that the final priorities specify the purpose of Projects With Industry and cite other key statutory and regulatory program requirements.

Discussion: The nature of these comments indicates that additional information is needed in the notice of final priorities to clarify the scope of PWI requirements and to ensure that applicants understand that all statutory and regulatory program requirements apply to each priority, even though not specifically mentioned in each priority.

Change: A paragraph identifying general program requirements has been added to the notice prior to the specification of requirements for each individual priority. This paragraph cites the statutory authority and implementing regulations for the PWI

program and states that all program requirements apply to each priority.

Comments: One commenter requested a definition or clarification of the phrase "establish national service delivery systems." Another commenter asked for a definition of "national scope" and whether a certain number of States were required.

Discussion: Several national scope organizations (e.g., Goodwill Industries of America, IBM, IAM-CARES) have established national service delivery systems under the PWI program. These organizations establish PWI projects at various sites around the country by (1) determining local and area needs; (2) assisting in the organization of Business Advisory Councils; (3) providing introductions to private industry, networking, consultation, and, in some instances, financial assistance to implement the new program; and (4) helping to obtain on-going financial support for the PWI site. After the project sites have been operational for several years and able to sustain their own programs, the national organization may move on to other sites and establish additional programs. The number of States involved in national programs varies by project; no specific number of sites are required, but the program should be larger in scope than regional PWI programs. The Secretary believes that the information provided in this discussion is sufficient for prospective applicants to determine the nature and scope of national projects, and that no additional information is needed under priorities 1, 2, and 3.

Changes: None.

Comments: One respondent objected to priorities 1, 2, and 3 because they would exclude a single industry or business even though that single business or industry places large numbers of disabled individuals in a variety of different jobs at multiple worksites.

Discussion: These priorities are intended to maximize the variety and number of competitive placements under the Projects With Industry program. To accomplish this purpose, the proposed priorities required project participants to be placed in a number of different businesses and industries. However, the respondent, who currently has a PWI project, is an excellent example of a single business or industry that can meet the purpose of these priorities. The Secretary agrees that the wording in priorities 1, 2, and 3 is unduly restrictive and should be revised to include single businesses or industries that demonstrate in their application that the proposed project meets all other requirements of these priorities and proposes to place a number of individuals into a variety of competitive employment positions at multiple worksites.

Change: Priorities 1, 2, and 3 have been revised to permit placement in single businesses or industries as long as all other priority requirements are met.

Priority 4

Comments: One respondent questioned the concept that all training be done exclusive at the job site because preemployment evaluation and training are excluded by the wording of this priority. Another respondent questioned whether initial placements, transitional employment or followup services would be allowed under this priority. Another respondent questioned whether jobseeking skills and work adjustment training would be allowable under this priority because of the onsite limitations.

Discussion: The intent of the priority is to provide individuals with handicaps with job skill training at an actual job site, while not restricting the provision of other necessary services by location. Based on these comments, the Secretary has decided to clarify that only job skills training must be provided onsite. All other necessary and required services can be provided at other locations.

Changes: The priority has been revised to clarify that only job skills training must be provided to individuals with severe or other disabilities exclusively at actual job sites.

Comments: Two respondents commented that only routine or entry level jobs would be available under this priority and that this would exclude persons with "higher aspirations."

Discussion: The Secretary does not believe that the nature of this priority restricts training and placement to entry level jobs and expects that the job skills training that is provided will be based on transferable skills. Furthermore, it is possible for projects funded under this priority to serve and place certain individuals who may not require the skills training provided under the program but who need other project services.

Changes: None.

Comments: Two respondents suggested that this priority implies the use of "supported employment" or "place and train" or "on-the-job training."

Discussion: Job skills training at actual worksites may involve supported employment services or other on-the-job training concepts, but the priority is not limited to these approaches. Other innovative skill training methods and services can be considered and are highly encouraged under this priority.

Changes: None.

Comment: One commenter suggested that the required role of the Business Advisory Council under priority 4 would be reduced to offering employment to clients, rather than being a partner in program development and consultancy.

Discussion: The Secretary does not believe there is any basis for concluding that the role of the Business Advisory Council in projects supported under priority 4 will be any less substantive or diverse than that in projects supported under other priorities.

Changes: None.

Priority 5

Comments: One commenter suggested that this priority is not needed because funding is available from other sources, but several other commenters highly supported this priority on youth. Two commenters suggested that the priority should be expanded to include all disabled youths, not just youths leaving the educational systems. One of these commenters cited the large number of developmentally disabled youths who have graduated from high school, but remain unemployed as justification of need.

Discussion: The Secretary believes that the goal of placing disabled youths into competitive employment in their early working years is sufficiently important to establish a priority under the PWI program that addresses this need. However, the Secretary agrees that the wording of this priority is too restrictive and should be revised to include also youths with handicaps after they leave the educational system. This change would provide greater flexibility in meeting the needs of this population.

Changes: The title and body of the priority have been broadened to cover young adults with handicaps, not just young adults who are making the transition from school to work.

Priority 6

Comment: One commenter requested a definition of "rural areas."

Discussion: The Secretary has determined that the use of any single definition of rural areas could be considered arbitrary and more restrictive than necessary for this priority. Accordingly, applications proposing projects under this priority must demonstrate that the area to be served is rural.

Changes: None.

Comments: One commenter stated that rural areas have very few opportunities for the types of

cooperative arrangements that are cited as examples in this priority ("coalitions of independent industries with formal agreements to cooperate, labor unions that have agreements with a multitude of industries, or single industries that have multiple worksites").

Discussion: The Secretary agrees that formalized cooperative agreements may not always be obtainable in certain rural areas. However, these are given only as examples of the types of cooperative arrangements that could be entered into to maximize job placements. Applicants are free to propose cooperative arrangements that are best suited to the rural area proposed to be served.

Changes: None.

Comments: One commenter supported the need for PWI projects in rural areas, but stated that this does not mean that the needs of certain segments of the urban population (blacks, Hispanics and women with work-related disabilities) are being adequately, effectively, or efficiently met under the PWI program.

Discussion: In recognizing the need for a PWI priority for rural areas, the Secretary did not intend to imply that the needs of all urban populations are being fully met by existing PWI programs. The priority is designed to increase the number of rural projects so that individuals with handicaps who reside in rural areas will be better served under the program.

Changes: None.

Priority 7

Comments: One commenter recommended deletion of the final sentence of this priority because it was unnecessarily restrictive in scope. The commenter stated that the requirement for projects to provide training overlooks the fact that an intervention strategy based on job modifications, environmental adaptations, and use of assistive technology might be more appropriate for certain older disabled workers.

Discussion: Regulations in 34 CFR 379.10 list the types of project activities required under the PWI program. Intervention of the type cited by the commenter is included as one of these activities if appropriate for particular project participants. Therefore, if an older worker needs intervention or services other than training, those services must be provided or arranged by the project. The Secretary has determined that the language in the last sentence is not restrictive or all-inclusive of the types of activities required by projects that address this priority. The Secretary has added a new general section to these priorities that cites the requirements in 34 CFR 379.10 as mandatory project services under the PWI program and that makes clear that all program requirements apply to these priorities even though not specifically mentioned in the individual priorities.

Changes: None.

Final Priorities

In accordance with the Education Department General Administrative Regulations (EDGAR) in 34 CFR 75.105(c)(3), the Secretary may set aside funds and give an absolute preference to applications that respond to one of the following priorities under the Projects With Industry program for fiscal year 1991. An absolute priority is one that permits the Secretary to select for funding only those applications proposing projects that meet one of these priorities. The final priorities are considered to be the areas of greatest need for fiscal year 1991.

The publication of these final priorities does not bind the United States Department of Education to fund projects in any or all of these service areas, unless otherwise specified by statute. Funding of particular projects depends on the availability of funds and the quality of the applications received.

General Requirements Applicable to Each of the Following Priorities

Applications submitted under any of these priorities must provide for all of the types of project activities required in 34 CFR 379.10, fully address the requirements of the specific priority selected, and meet all other statutory and regulatory requirements applicable to this program (section 621 of the Rehabilitation Act and implementing regulations in 34 CFR parts 369 and 379).

Note: The listing of certain specific service requirements under individual priorities should not be considered fully inclusive of all services required by projects under these priorities.

Priorities 1, 2, and 3: National, Local, or State and Multi-State Projects

Because of the need to maximize the variety and number of competitive placements under the Projects With Industry program, priority will be given to projects that provide training, supportive services, job development services, and placement to individuals with severe and other handicaps at a single business or industry or a number of different businesses and industries. The nature of the training must be dictated by current and future employment trends and labor market needs and lead to job placements at multiple worksites.

In addition to these requirements, under priority 1 projects must be national in scope and establish national service delivery systems; under priority 2 projects must be local in scope; and under priority 3 projects must establish two or more project sites in different geographical areas. These two or more project sites may be located within a single State or within two or more States.

Priority 4: Industry-Based Training

Priority will be given to projects that provide job-skills training to individuals with severe or other disabilities exclusively at job sites where those individuals are expected to be subsequently employed, rather than training at simulated worksites. To the extent possible, this training must be integrated into existing skills training programs provided by the business or industry.

Priority 5: Projects to Aid Young Adults with Handicaps

Because of the need to prevent the potentially detrimental effects of early unemployment, priority will be given to projects that serve youths with handicaps, especially those with the most severe handicaps, as they leave or within a few years of their leaving the educational system, including postsecondary educational programs.

Priority 6: Rural Projects

The majority of current PWI projects are located in urban, densely populated areas. Thus, individuals with handicaps who reside in rural areas are not as well served by the PWI program as individuals who reside in urban areas.

Current projects that have formal agreements with a number of different businesses and industries to conduct training and provide employment often have a greater impact on the number of project participants placed than do projects that are more restricted in their opportunities for placement.

Accordingly, priority will be given to projects that serve rural areas and that establish cooperative arrangements to maximize job placements. Examples of cooperative arrangements are coalitions of independent industries with formal agreements to cooperate, labor unions that have agreements with a multitude of industries, or single industries that have multiple worksites. Under this priority, project participants must be trained and placed in occupations that reflect current and future employment trends and labor market needs of the geographic area or areas to be served.

Priority 7: The Older Disabled Worker

Based upon studies and statistics that document the age span of the current workforce through the year 2000, the largest group is composed of individuals who are 45 years of age and older. Accordingly, priority will be given to projects that provide specialized service programs that meet the competitive employment needs of individuals in this age group who have severe or other services, job development, and placement services.

(29 U.S.C. 795g)

(Catalog of Federal Domestic Assistance No. 84.234, Rehabilitation Services Administration)

Dated: September 27, 1990.

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 90-23333 Filed 10-2-90; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.234]

Projects With Industry; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1991

Purpose of program: To promote opportunities for competitive employment of individuals with handicaps by engaging private industry as partners in training and placement.

Deadline for transmittal of applications: November 30, 1990.

Deadline for intergovernmental review: January 30, 1991.

Applications available: October 1, 1990.

Available funds: $17,000,000.

Awards are to be made in seven priority categories. Specific information regarding estimated funds and awards appears in the chart in this notice.

Note: The Department is not bound by any estimates in this notice.

Project period: Up to 60 months.

Applicable regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program is 34 CFR 369 and 379.

The priorities in the notice of final priorities for this program, as published in this issue of the **Federal Register**, also apply.

PROJECTS WITH INDUSTRY

CFDA No.	CFDA title	Estimated available funds	Estimated average size of awards	Estimated number of awards	Estimated range of awards
84.234A	National Projects [1]	$3,000,000	$300,000	10	$225,000-375,000
84.234B	Local Projects	6,000,000	150,000	40	125,000-175,000
84.234C	State and Multi-State Projects	3,500,000	250,000	14	200,000-300,000
84.234D	Industry-Based Training Projects	750,000	150,000	5	125,000-175,000
84.234E	Projects to Aid Young Adults with Handicaps	1,500,000	150,000	10	125,000-175,000
84.234F	Rural Projects	1,500,000	150,000	10	125,000-175,000
84.234G	Older Disabled Workers Projects	750,000	150,000	5	125,000-175,000

[1] Projects funded under this category may be awarded as cooperative agreements.

For applications or information contact: Sherrita Gary, U.S. Department of Education, 400 Maryland Avenue, SW, Room 3332, Switzer Building, Washington, DC 20202-2649. Telephone (202) 732-1351.

Program Authority: 29 U.S.C. 795g.

Dated: September 26, 1990.

Robert R. Davila,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 90-23334 Filed 10-2-90; 8:45 am]

BILLING CODE 4000-01-M

federal register

Wednesday
October 3, 1990

Part V

United States Information Agency

American Studies Summer Institute, Bureau of Educational and Cultural Affairs; Assistance Program; Summer Institute in American Studies

UNITED STATES INFORMATION AGENCY

American Studies Summer Institute, Bureau of Educational and Cultural Affairs; Assistance Program; Summer Institute in American Studies

Overview

Contingent upon the availability of funds, the Bureau of Educational and Cultural Affairs of the United States Information Agency (USIA) is soliciting proposals for a graduate-level American studies institute to take place on or about July 2 to August 15, 1991. Due date for receipt of proposals is COB November 30, 1990. The institute is designed for approximately 35 highly motivated senior secondary school educators in English language, American literature, government, history, society and culture and geography. Participants will come from countries in Europe, Asia, Africa, Latin America and the Middle East. The institute is conducted entirely in English. Participants are expected to have a high-level fluency in English. USI is asking for detailed proposals from institutions which have an acknowledged reputation in American studies and related fields with special expertise in handling cross-cultural programs.

Objectives

The objective of the institute is to support and encourage the efforts of other countries to improve the quality of teaching about American society and culture at the secondary level. The program should be designed for teacher trainers, curriculum developers, textbook writers and/or secondary-level classroom teachers with responsibilities in curriculum planning and materials development whose teaching assignments require a general up-to-date knowledge of American civilization and culture. Many of these educators will be involved in the teaching of English as a foreign language; however educators in the fields of American literature, government, history, society and culture, and geography also participate in this program.

Time Frame and General Description

The institute should run approximately 45 days, beginning on or about Tuesday, July 2 and ending on or about Wednesday, August 15, 1991. The participants will arrive directly at the campus site. International travel from home country to the campus will be the responsibility of the USIA posts abroad. The university program staff will be expected to make arrangements to have participants met upon arrival at the airport nearest the university campus. Although some participants, especially from Western Europe, may have visited the U.S., an initial orientation to the U.S. and the campus should be considered an integral part of the institute and should be held at the beginning of the program. The applicant is asked to design a two-part program:

(a) A four-week academic program at the university and

(b) A two-week escorted tour of two or more different regions of the United States.

The tour segment should be planned, arranged, and conducted by the Program Director and principal university staff and should be seen as an integral part of the program, complementing and reinforcing the academic material. It should not be a whirlwind tour of the U.S. The university should indicate the tour sites, not to exceed three cities in addition to a three-to-four-day visit to Washington, DC, toward the end of the tour. Programming in Washington should include a half-day briefing session at the U.S. Information Agency.

Program Description

The institute should be a graduate-level academic program aimed at improving the participant's understanding of American society and institutions and contemporary national issues. For the purpose of the institute, American studies is understood to include aspects of American history, literature, society and culture, geography and political science. The program should provide an intellectual framework and organizing principles for understanding and teaching about the U.S. The institute should address the diversity, complexity and unity of American contemporary life; provide a basic overview of American institutions such as government, education and religion; and discuss current national issues and the social and political response to these issues. The academic instruction should address a range of views of American values and character expressed through our social, economic and literary history, technological development, and forms of creative expression.

The academic program should maintain a relative balance among plenary sessions, lectures, workshops and practicums. Academic activities should provide opportunities to clarify the themes and issues of the program on a weekly basis. Lengthy lecture sessions should be avoided whenever possible, or associated with workshop or small group discussion periods. The proposal should include a detailed syllabus outlining the focus of the subject matter with specific readings required for each unit, accompanied by a required reading list and selected bibliography for the institute.

Activities should include an orientation to the U.S. and the university community, field trips to places of local interest, home stays with families in the area (other secondary educators if possible), and events which will bring the participants into contact with Americans from different walks of life. These encounters will give the participants a chance to experience American society, its institutions and language, and observe the variety of attitudes that constitute one of our country's most striking characteristics.

In addition to the substantive presentations and discussions about American society, the institute should focus upon pedagogical concerns, materials and curricular development in the context of teaching about the U.S. Samples of secondary school curricula, materials and topical bibliographies in American studies fields should be provided or developed during the program. It should be noted that these participants will not only come from several different disciplines but also from a variety of educational systems. Most systems have rigorous teacher training programs for certification, and classroom methods evaluated and approved by regional inspectors. Similarly, some systems require adherence to an assigned textbook while others allow significant flexibility to teachers in determining what materials they will use in presenting a lesson. The variety of approaches and experiences should provide the basis for interaction which will be both culturally and professionally stimulating to the entire group.

Program Administration

All programming and administrative logistics, management of the academic program and cultural tour will be the responsibility of the project director. The project director should be a full-time, preferably tenured, professor of the university. A project secretary and/or project assistant should be assigned to carry out clerical and administrative duties required for the smooth operation of the institute during the program grant period, from the planning period to the completion of mandatory reports to USIA. USIA will be responsible for all communications to and from the U.S. Information Agency posts abroad (USIS), which submit nominations to the Division for the Study of the U.S. and are responsible for all international travel arrangements for participants.

The USIA Program Officer will be available to offer any advice or guidance the university might find useful. To assist the university with programming facilitative services during the tour, there is a possibility of utilizing the programming and hospitality services of volunteer community groups across the country that are affiliated with the National Council for International Visitors, a nation-wide network that provides hospitality and program assistance to foreign visitors.

If your university decides to submit a proposal, it should provide a detailed plan in response to the needs and priorities outlined above. Applicants should draw imaginatively on the full range of resources offered by their universities but may involve outstanding professionals from other universities and organizations. The proposal must clearly demonstrate quality on-site management capabilities for both the residential and the tour programs. The overall effectiveness of the institute hinges in part upon the leadership, and administrative and organizational capabilities of the project director to coordinate the academic program and to manage the interactions between foreign educators and Americans.

Budget Guidelines

For your guidance, our experience with similar institutes indicates that the cost to organize and administer the 45-day academic and group tour segment of this Institute would be approximately $1,700 per person based on a group of 30 to 35 participants, excluding participant living costs such as international and domestic air travel expenses, cultural allowance, cost for room and board on campus, and hotel and meals on tour.

The proposal should provide a detailed line-item budget outlining specific expenditures and source(s) from which funds are anticipated. The budget should include any in-kind and cash contributions to the program from universities, contributions, cost-sharing, or the private sector. Included in the budget worksheet for each budget line-item should be an explanation detailing how costs were computed (in parantheses), *i.e.*, each salary line-item should include position title, annual salary, and per cent of effort used for this program.

The budget should include and elaborate on the following information with derivational cost figures such as unit costs and number per unit whenever possible in parentheses:

I. University Costs

Administrative

(1) Salaries, benefits, and services (including support staff) for the program.

(2) Administrative costs, office expenses, and any other costs covering the academic activities during the four-week university program.

Program

(1) Miscellaneous costs, such as honoraria, film rental, and educational support material on campus, etc.

(2) Group admission costs for all cultural and tour activities during the course of the on-site university institute and weekend tour(s).

(3) Escort tour costs: university escort travel and expenses such as per diem, ground transportation costs for group activities, admission to cultural and tour activities (excluding domestic air travel costs).

(4) Group ground transportation, including meeting participants at the airport upon arrival on campus, airport transfer buses to and from airports and other education group transportation costs on campus and during the tour (excluding domestic air travel costs).

(5) A one-day visit to Washington for a program briefing of university escorts for first-time university applicants only. Per diem for one full day in Washington at a rate of $127 is allowable (excluding round-trip air fare which should be included in the domestic air travel section of the budget.)

Indirect Costs

Indirect costs should be held to a minimum. Universities which were awarded grants to conduct the American studies summer institutes in the past have accepted a level of 8% indirect cost. Universities have considered cost-sharing the amount in excess of 8%. A copy of the indirect cost rate of the cognizant agency should be included.

Domestic Air Travel for Escorts Only

Cost of the domestic program tour and return to campus at the end of the program for the escorts only and, if applicable, round-trip air fare to Washington for program directors(s).

II. Per Capita Participant Costs (included as an adendum to the main budget)

(1) Lodging and Meals: Each foreign participant will receive per diem for the 45-day program. This should cover the costs of room, board and incidentals while on campus and during the tour which should not exceed U.S. Government per diem rates. If itemized separately, meals and incidental expenses on tour should not not exceed $33/day in addition to the cost of the hotel. Campus housing and meals should be shown as separate items and should include a $10/day incidental allowance.

(2) Required books;

(3) Ground transportation for individual or small group special events on campus and during the tour (such as a train or bus fares) not included in the main budget as a group project, only if applicable;

(4) Program and tour admission costs and other incidental costs for group activities on tour not included in the university program budget.

(5) Departure travel allowance not to exceed $70;

(6) A modest cultural allowance, not to exceed $100 per participant; and

(7) Estimated domestic program air fare.

Note: Total participant living costs and domestic air travel should be shown on a per capita breakdown multiplied by the number of participants, estimated at 35.

Summary Budget Sheet

The budget summary should include totals of the following budget categories in the order listed below:

Administrative Costs
Program Cost (university program and tour program)
Total Administrative and Program Costs
Indirect Costs
Domestic Air Fares for escorts only
Total University Costs
Participant Living Costs based on 35 participants
Total Institute Costs

Domestic Air Travel

The university is required to book all domestic program tour flights through a U.S. carrier. If domestic air tickets are issued in the U.S., they should be booked and purchased through the Agency-approved Travel Management Center or a private travel agency using Government Transportation Requests, which allow access to government discount air fares. This applies to all domestic travel for university escorts and participants. Since these funds are withheld by the Agency, they are not subject to indirect costs.

For Institutional Recipients of Previous Awards Only

If your university was funded for a similar program last year, the budget should include last year's detailed line-item budget. Significant differences for each item must be noted and justified.

Funding Arrangements

A USIA cooperative agreement will be issued to the university selected to

conduct the institute covering university administrative and program costs in item I. The university will disburse participant living costs and other authorized allowances approved by the program for participants selected and funded by USIA directly. These costs will be added to the agreement through an amendment, when the number of grants are determined.

International Travel

Round-trip international travel arrangements from home country to the campus and return from the last tour city (which may be Washington, D.C.) will be made and paid by USIA posts abroad. Participants will be given a modest travel allowance before departure from their home country. If a USIA post cannot issue U.S. dollars, the institution may be requested to provide these allowances. The agreement will be amended to cover such authorized costs.

Selection Criteria

A panel of senior USIA officers experienced in American studies, the exchange of international educators, and foreign affairs will use the following criteria when evaluating proposals for selection:

(1) Quality and imaginative design of the institute;

(2) Quality, rigor, and appropriateness of proposed syllabus to goals of the institute;

(3) Clear evidence of the ability to deliver a substantive academic and pedagogical American studies program;

(4) Demonstrated high quality American studies programs—experience with foreign teachers is desirable;

(5) Provision for a useful evaluation at the conclusion of the institute;

(6) Evidence of strong on-site administrative and managerial capabilities for international visitors with specific discussion of how managerial and logistical arrangements will be undertaken;

(7) The experience of professionals and staff assigned to the program;

(8) The availability of local and state resources for the orientation and institute;

(9) A well-thought out and comprehensive cultural tour to complement the academic program;

(10) Cost-effectiveness.

Agreement Dates

The agreement period should begin two to two and-a-half months prior to the beginning of the project date, July 2, for which period only minimal administrative assistance costs will be allowed. The termination date should be 60 to 90 days after the end of the project date of August 15, to cover the required end-of-project report. Approximate time period for the activity on the USIA cover sheet should then be from approximately May 1 to October 15, 1991.

Mailing of the Proposal

Applicants should submit *ten copies each* of a 500-word summary statement and a detailed proposal not to exceed 20 typed, double-spaced pages addressing the points outlined above and following the detailed budget guidelines. Interested institutions should request a USIA grant cover sheet; an Assurance of Compliance form; Certification Regarding Drug-Free Workplace Requirements; Certification Regarding Debarment, Suspension, and Other Responsibility Matters; and Certification for Contracts, Grants and Cooperative Agreements with appropriate Disclosure of Lobbying Activities forms at the address below.

Final proposals along with the forms requested must be received in the Agency by COB Friday, November 30, 1990.

The proposal package should be submitted to: U.S. Information Agency, American Studies Branch, E/AAS Attn: Katherine Passias, Rm. 256, 301 4th St., SW., Washington, DC 20547 Phone (202) 619–4557

Dated: September 24, 1990.

Guy Story Brown,

Director, Office of Academic Programs.

[FR Doc. 90–23408 Filed 10–2–90; 8:45 am]

BILLING CODE 8230–01–M

Reader Aids

Federal Register

Vol. 55, No. 192

Wednesday, October 3, 1990

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

39911-40150 1
40151-40374 2
40375-40644 3

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6188 40365
6189 40367
6190 40369
6191 40371
Executive Orders:
12002
(See EO 12730) 40373
12131
(See EO 12730) 40373
12214
(See EO 12730) 40373
12730 40373

5 CFR

1204 39911
1205 39911
Proposed Rules:
2412 40188

7 CFR

58 39911
301 40375
723 39913
724 39913
725 39913
726 39913
1944 40376
Proposed Rules:
800 40136
1930 39982
1944 39982

9 CFR

151 40260

11 CFR

100 40376
102 40377
104 ..... 40376, 40377
106 40377
114 40376
116 40376
9003 40377
9007 40377
9033 40377
9035 40377
9038 40377
Proposed Rules:
109 40397
114 40397

12 CFR

Proposed Rules:
211 40190
265 40190

13 CFR

107 40356
120 40151

14 CFR

39 ..... 39954-39957, 40152, 40159
61 40262
63 40262
65 40262
71 ..... 40160, 40378
91 40360
108 40262
121 40262
135 40262
Proposed Rules:
Ch. I 40191
23 40598
39 40191-40198
71 ..... 40041, 40200, 40398

16 CFR

305 40161

17 CFR

239 40162

19 CFR

Ch. I 40162
201 40378

21 CFR

333 40379
341 40381
448 40379

24 CFR

201 40168
203 40168
234 40168
888 40044
Proposed Rules:
200 40399

26 CFR

Proposed Rules:
1 ..... 40401, 40402

28 CFR

551 40354

29 CFR

510 39958

30 CFR

Proposed Rules:
7 40124
18 40124
57 40124
75 40124

31 CFR

317 39959
321 39959

32 CFR

775.....39960

33 CFR

100.....39961
110.....40383
117.....39962–39964
165.....39965, 39966, 40169, 40383

Proposed Rules:

110.....39985
165.....39986

34 CFR

682.....40120

Proposed Rules:

668.....40148

38 CFR

17.....40169
21.....40170

39 CFR

Proposed Rules:

111.....40560

40 CFR

60.....40170
248.....40384
249.....40384
250.....40384
252.....40384
253.....40384

Proposed Rules:

52.....40201, 40202, 40403
141.....40205
144.....40404
145.....40404
146.....40404
147.....40404
148.....40404
180.....40206
185.....40206
186.....40206
260.....40206
261.....40206
262.....40206
264.....40206
265.....40206
270.....40206
271.....40206

42 CFR

Proposed Rules:

60.....40140

46 CFR

16.....40178
25.....39967
50.....39968
56.....39968
61.....39968
91.....40260

47 CFR

73.....39969, 39970, 40390, 40391
80.....40179

48 CFR

52.....40392
53.....39970
219.....39970
237.....39970
247.....39970
252.....39970
503.....39972
504.....39972
505.....39972
515.....39972
552.....39972
701.....39975
734.....39975
737.....39975
752.....39975

Proposed Rules:

950.....40210
952.....40210
970.....40210

49 CFR

106.....39977
107.....39977
171.....39977
172.....39977
173.....39977
175.....39977
177.....39977
178.....39977
179.....39977

Proposed Rules:

571.....40404

50 CFR

20.....40392
646.....40181, 40394
656.....40181
672.....40185, 40186

Proposed Rules:

17.....39988, 39989
646.....40260

LIST OF PUBLIC LAWS

Last List October 2, 1990

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030).

H.R. 1101/Pub. L. 101–397

To extend the authorization of appropriations for the Water Resources Act of 1984 through the end of fiscal year 1994. (Sept. 28, 1990; 104 Stat. 852; 3 pages) Price: $1.00

H.R. 2174/Pub. L. 101–398

Mississippi River Corridor Study Commission Act of 1989. (Sept. 28, 1990; 104 Stat. 855; 5 pages) Price: $1.00

H.R. 4501/Pub. L. 101–399

To provide for the acquisition of the William Johnson House and its addition to the Natchez National Historical Park, and for other purposes. (Sept. 28, 1990; 104 Stat. 860; 1 page) Price: $1.00

S. 963/Pub. L. 101–400

Route 66 Study Act of 1990. (Sept. 28, 1990; 104 Stat. 861; 2 pages) Price: $1.00

S. 2205/Pub. L. 101–401

Maine Wilderness Act of 1990. (Sept. 28, 1990; 104 Stat. 863; 3 pages) Price: $1.00

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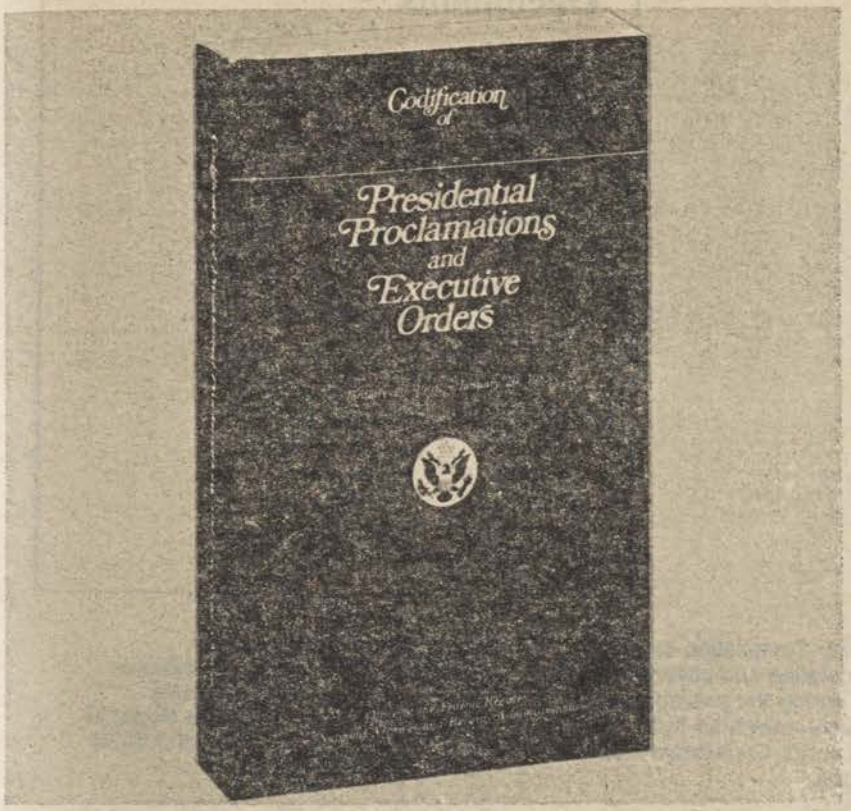

For those of you who must keep informed about **Presidential Proclamations and Executive Orders,** there is a convenient reference source that will make researching these documents much easier.

Arranged by subject matter, this edition of the *Codification* contains proclamations and Executive orders that were issued or amended during the period April 13, 1945, through January 20, 1989, and which have a continuing effect on the public. For those documents that have been affected by other proclamations or Executive orders, the codified text presents the amended version. Therefore, a reader can use the *Codification* to determine the latest text of a document without having to "reconstruct" it through extensive research.

Special features include a comprehensive index and a table listing each proclamation and Executive order issued during the 1945–1989 period—along with any amendments—an indication of its current status, and, where applicable, its location in this volume.

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